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POTENTIAL INEQUITIES AFFECTING WOMEN

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BEFORE THE

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UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

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POTENTIAL INEQUITIES AFFECTING WOMEN

TUESDAY, JUNE 21, 1983

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 9:30 a.m., in room SD-215, Dirksen Senate Office Building, Hon. David Durenberger (chairman) presiding.

Present: Senators Durenberger, Packwood, Long, Bradley, and Grassley.

[The opening statement of Senator Mitchell and an article from the Washington Post "Deadbeat Dads" follows:]

STATEMENT OF SENATOR GEORGE J. MITCHELL

In the last three decades, American society has changed radically, but many of our economic institutions have failed to adapt to the change. Although fully 43 percent of our work force consists of women, wage scales, pension programs and child care arrangments reflect a society in which working women are a rarity. They are tailored to a society in which the norm is the one-earner family of working husband, homemaker wife and 2.3 children.

For a majority of American families today, that economic norm is simply inaccurate. Yet the world of work has been slow to adapt to current realities. And the outcome can be seen in the increasing feminization of poverty throughout the country.

When 70 percent of those living in poverty are women, and 90 percent of the single-parent families in the country are headed by women, it does not take much effort to recognize that we are sustaining anachronistic employment and pension structures which simply do not meet the needs of our society any longer.

The reasons for women's economic inequality have been well presented to this Committee and are familiar.

What is less often recognized, however, is that inequities in pay and benefits have a cumulative life-time effect as well. For example, private pension programs are not required to vest anyone under the age of 25. But women's work force participation is heaviest in the years 21 to 25, and the following years are, biologically, the prime childbearing years.

In practice, a woman can work for a firm from age 21 to 26; leave for a couple of years to raise a family, and return to work with no vested pension rights whatever. Coupled with lower pay for women overall and the fact that spacing a family may require repeating this pattern, it is easy to see why women's earned pensions are virtually half those of men.

As more and more young women go to work, get married and contemplate raising a family, they will find that the decision to have and raise children can be a direct cause of poverty and economic dependency in their retirement years.

Too many women today have already learned this and are forced to live with the consequences.

The working life pattern of most women is not identical to that of men for the simple reason that having and raising children demands time away from the work force. Under our current employment system, that time costs the woman more than the salary she forfeits: It directly affects her pension earnings, her ability to be vested into pension programs, and her subsequent economic independence in later life.

For those women who have chosen to make child rearing and homemaking their careers, virtually no safeguards now exist to protect them in the event of their spouse's death or in the event of divorce. We all deplore the tragedy of divorce late in life; but we must do more than that. We must make certain that the breaking of an emotional bond does not entail poverty for one partner as well.

Today, that is all too often the case. State laws do not all recognize pensions as joint property when marriages fail, so the female marriage partner with no pension rights of her own is left to depend on the spouse's share of Social Security benefits. Civil Service rules do not require any portion of a federal pension, for instance, to be paid to a divorced spouse, regardless of the number of years of marriage.

One of my constituents recently wrote me a letter describing the effect of this circumstance on her own life. After 43 years of marriage to a civil servant, during which time she was a full-time homemaker, bringing up children and making a home, she and her husband divorced. Her former husband now receives his pension in its entirety, plus his Social Security. She receives just her share of the joint Social Security account. Her income today is $240 a month. His income today is $3,280 a month.

Yet surely, despite the fact that the marriage did not last, the partnership this couple shared of 43 years should be recognized as a more economically equal one. Every married man knows that the responsibility of bringing up children and creating and maintaining a home is not a negligible contribution to a family. Indeed, today it is fashionable to laud the family as the best and most effective economic unit in our society.

Yet what our society has been unwilling to recognize is that when the family unit no longer exists as a unit, the contribution of one partner often receives no economic recognition, while the contribution of the other is recognized in law. The tragic fact is that for the vast majority of homemakers, divorce means a harsh and unfair economic penalty.

We pay tribute to the equal partnership of marriage. But all too many of our economic institutions prove that it is only lip service.

The Economic Equity Act is a step in the direction of correcting that situation by requiring our economic structures to make the practical adaptation to the economic realities of the workplace and the social realities of retirement today.

[From the Washington Post, June 16, 1983]

DEADBEAT DADS

Sunday is Father's Day, and most American children will be doing something special for dear old dad. It's a useful occasion for children to remember that the old man works hard to keep a roof over their heads and that, for all his faults, he's not such a bad fellow to have around the house. But Father's Day will be only an unhappy reminder for millions of children that their fathers no longer care enough about them even to help pay for their upbringing.

The failure of fathers to contribute to support of their children is no longer a problem confined to a substrata of American families. More than 8 million families now lack a male parent, and with 1.2 million new divorces every year, the number continues to grow. Experts estimate that one-half of American children—from all income levels—will live apart from their fathers for part of their childhood. For the great majority of them, the departure of the father will mean a steep and often permanent drop in their living standards.

Fewer than three of every 10 fatherless families receive regular child support payments from the absent father, and the payments received from the absent father, and the payments received average less than $2,500 a year. Even when fathers are under court order, less than half pay regularly, and perhaps as many as a third never make a single payment. Contrary to popular belief, many of these delinquent fathers have substantial incomes. A California study showed, moreover, that a year after divorce, while the wife's income typically dropped by 73 percent, the husband's rose by 42 percent.

For most women, pursing a recalcitrant ex-mate is a bleak and expensive process. Courts have huge backlogs of child-support cases, and even if a judgment is won and arrears are collected, the victory is usually temporary. It is especially easy for fathers to avoid further payments by moving to a different state or, in some cases, even a different county.

In recent years the federal government's Child Support Enforcement program has helped states crack down on absent fathers whose families have been forced onto welfare rolls. The program has already produced significant welfare savings in many states, and the Reagan administration is preparing legislation to strengthen provisions for withholding wages and tax refunds from delinquent parents and helping states coordinate collection efforts. These are sensible proposals. But they do little to help either the families involved—since collections simply offset the typically low welfare benefits—or the equally large number of deserted families that have avoided welfare but still scrape by on relatively meager incomes.

As more and more families have become exposed to the weakness of the child-support system. Congress has become increasingly interested in additional measures that would have broader impact. Child support is one issue that appeals—rightly—to all parts of the political spectrum. A prospective welfare saving is only one small part of that concern. A society that cares about its future will make every effort to see that its children are not raised in deprivation and that their parents recognize that the decision to have children entails lifelong responsibilities.

Senator DURENBERGER. The hearing will come to order.

We have a full hearing schedule for this morning and this afternoon. This afternoon's hearing, I understand, will start at 1:30. This morning's witness list is a series of congressional witnesses and two panels to follow those witnesses.

We had an excellent series of morning and afternoon hearings yesterday, and I deeply appreciated the testimony and the responsiveness of all of yesterday's witnesses and look forward to today's witnesses, the first of which is our colleague, the junior Senator from the State of Florida, the Honorable Paula Hawkins.

Paula, we welcome you to the hearing and look forward to your statement.

STATEMENT OF SENATOR PAULA HAWKINS, U.S. SENATOR, STATE OF FLORIDA

Senator HAWKINS. Thank you, Mr. Chairman. I am pleased to testify before the Finance Committee today in behalf of S. 1359, an important component of the Economic Equity Act. I joined the distinguished Senator from Ohio, Mr. Metzenbaum, last year in cosponsoring this legislation to amend the dependent care tax credit. This bill offers assistance to the many families who must make arrangements for the care of their children and elderly or disabled family members.

Many important provisions in the legislation which we sponsored in 1981 were deleted in the House and Senate conference. We are resubmitting these deleted provisions. The provisions include an improved sliding scale, refundability of the tax credit, and the easing of requirements for tax-exempt status to childcare centers. These were important provisions 2 years ago and recent economic and social trends make the enactment of these provisions even more crucial today.

The working mother reflects the changing nature of our society, both culturally and economically. As you know, in the vast majority of families in which females work outside the home, they do so for reasons of economic necessity. Two-thirds of the women in the work force are either sole providers or have husbands who earn less than $15,000. Indeed, one out of every three families with single working mothers are below the poverty line. The situation is so bleak that the National Advisory Council on Economic Opportunity projects that by the year 2000 the Nation's poor will be almost exclusively composed of single, working women and their children.

Another problem is that the lack of child care presents a drain on our Nation's productivity. Employers and production analysts are gradually becoming aware of the decline in worker productivity when dependent care arrangements are inadequate. But only a few innovative businesses and hospitals are realizing the benefits of providing their employees with child care services.

Although I have repeatedly stressed the needs of families with young children, we must also be aware of the burdens of caring for the elderly or disabled dependent. There are over 600 adult day care centers in the United States, 37 in Florida alone. Today the over-80 age group is the fastest growing age group in the country. Much like young children, the elderly need proper attention and care. We need to encourage, not discourage, families to care for the elderly in their own home instead of in institutions.

Similarly, disabled dependents require special attention. Because of the costly special services and equipment they require, those who desire to care for disabled family members in their own homes often find they need to return to work to earn the extra money required to support that dependent. Despite the importance of care by family members and the desire of those family members to keep and care for their dependents within the home, the lack of dependent care during working hours prevents many families from staying together.

We have made some important steps in rectifying this inequity. In the 97th Congress, we amended the dependent care tax credit to establish a sliding scale tax credit, where the amount of the credit rose as the taxpayer's income fell. Taxpayers earning above $30,000 a year continued to receive their 20 percent tax credit on their allowable dependent care expenses, but families earning $20,000 could get a 25-percent tax credit and families earning $10,000 could get a 30-percent tax credit. The IRS has noted that because this credit is only available on the long form, most low-income individuals are effectively prevented from taking advantage of this credit. Last year the IRS instituted a campaign to advertise the availability of the credit and they have informed us that next year the new short form will contain a new line allowing taxpayers to take advantage of the dependent care tax credit on the short as well as the long form. I want to take this opportunity to thank you, Senator Durenberger, and you, Senator Packwood, for your assistance in urging the IRS to include this line on the future IRS tax forms. We feel it's most important. However, there are many low-income families who pay too little in taxes to take advantage of any tax credit and yet earn too much to qualify for federally subsidized dependent care. For these families, refundability is a needed and necessary element of the tax credit.

Although I consider refundability the key element of this amendment, the other two provisions are vitally important to insure the availability of dependent services at affordable prices. This amendment would increase the sliding scale tax credit. The implementation of the sliding scale was a significant step toward improving low income families access to this tax credit. But we need a scale that is in line with economic reality—a scale that peaks at 50 percent for low-income families, providing a more realistic level of support for dependent care expenses.

Finally, this amendment would make it easier for nonprofit child care centers to qualify for the 501(c) tax-exempt status. The lack of adequate funding for families is not the only problem. There is, as you know, also a shortage of accredited child care facilities. We've talked about it many times. This amendment would permit nonprofit dependent care centers to receive tax-exempt status by easing the requirement that the centers prove their educational purposes curriculum. The centers would qualify upon proving that their services would be available to the general public for the purpose of enabling individuals to be gainfully employed. This provision is intended to encourage the creation of additional dependent care slots and improve the availability of dependent care to children, the elderly, and the disabled.

Senators, I believe that this legislation brings much needed relief to families who need outside care for their dependents, whether they are children, elderly, or disabled adults, when other family members are at work. I urge the committee to give favorable consideration to the need for this legislation and commend you for holding this hearing.

[The prepared statement of Senator Hawkins follows:]

STATEMENT OF SENATOR PAULA HAWKINS

Mr. Chairman, I am pleased to testify before the Finance Committee today in behalf of S. 1359, an important component of the Economic Equity Act. I have joined the distinguished Senator from Ohio, Mr. Metzenbaum, in cosponsoring this legislation to amend the Dependent Care Tax Credit Act. This bill offers assistance to the many families who must make arrangements for the care of their children and elderly or disabled family members.

In 1981, I joined Senator Metzenbaum in sponsoring similar legislation which passed the Senate as an amendment to the Economic Recovery Tax Act. Many important provisions, however, were deleted in the House-Senate Conference. We are resubmitting those deleted provisions. The provisions include an improved sliding scale, refundability of the tax credit, and the easing of requirements for tax-exempt status to childcare centers. These were important provisions two years go and recent economic and social trends make the enactment of these provisions even more crucial today.

Working families with young children, elderly or disabled relatives share an important need, the need for support in caring for their dependents. In the past, the wife stayed home and prepared the eggs, while the husband brought home the bacon. But our economy and life style is changing. Now, only one out of every 21 families resembles the classic nuclear family.

Today, approximately 60 percent of all women aged eighteen to sixty-four are in the workforce. In the 1980's women are expected to account for 7 out of every 10 additions to the labor force. Since 1950, the percentage of women in the workforce has nearly doubled.

The result of these changes in the work patterns of women is that today more than half of the nation's children have mothers in the workforce. Even among preschoolers, approximately 50 percent have mothers in the labor force. If you add this amount to the number of women who are unemployed and actively looking for employment, you can begin to appreciate the great need for dependent care services.

The working mother reflects the changing nature of our society, both culturally and economically. In the vast majority of families in which females work outside of the home, they do so for reasons of economic necessity. Two-thirds of the women in the work force are either sole providers or have husbands who earn less than $15,000. Indeed, one out of every three families with single, working mothers are below the poverty line. The situation is so bleak that the National Advisory Council on Economic Opportunity projects that by the year 2000 the nation's poor will be almost exclusively composed of single, working women and their children.

This lack of affordable childcare is a major factor in keeping women and children in poverty. The U.S. Commission on Civil Rights has noted that the inability to access childcare restricts not only the women's employment and training opportunities but also their ability to participate in Federally supported education programs. A number of studies suggest that approximately one out of every six women is unemployed because she is unable to make satisfactory childcare arrangements. Another problem is that the lack of childcare presents a drain on our nation's productivity. Employers and production analysts are gradually becoming aware of the decline in worker productivity when dependent care arrangements are inadequate, but only a few innovative businesses and hospitals are realizing the benefits of providing their employees with childcare services.

Although I have repeatedly stressed the needs of families with young children, we must also be aware of the burdens of caring for the elderly or disabled dependent. There are over 600 adult daycare centers in the United States, thirty-seven in Florida alone. Today, the over 80 age group is the fastest growing age group in the country. Much like young children, the elderly need proper attention and care. We need to encourage, not discourage, families to care for the elderly in their homes instead of in institutions.

Similarly, disabled dependents require special attention. Because of the costly special services and equipment they require, those who desire to care for disabled family members in their own homes often find that they need to return to work to earn the extra money required to support that dependent. Despite the importance of care by family members and the desire of those family members to keep and care for their dependents within the home, the lack of dependent care during working hours prevents many families from staying together.

Although important steps have been taken in providing affordable dependent care, additional provisions are necessary to make the tax credit available to low income individuals. The largest single source of federal support for dependent care services is not Title XX or Head Start, but the Dependent Care Tax Credit. And the primary beneficiary of this federally subsidized assistance is not the low-income welfare mother, but the middle and high income family.

We have made some important steps in rectifying this inequity. In the 97th Congress, we amended the Dependent Care Tax Credit to establish a sliding scale tax credit, where the amount of the credit rose as the taxpayer's income fell. Taxpayers earning above $30,000 a year continued to receive a 20 percent tax credit on their allowable dependent care expenses, but families earning $20,000 could get a 25 percent tax credit and families earning $10,000 could get a 30 percent tax credit. The Internal Revenue Service has noted that because this credit is only available on the long form, most low-income individuals are effectively prevented from taking advantage of this credit. Last year the IRS instituted a campaign to advertise the availability of the credit and they have informed us that next year the new "short" form will contain a new line allowing taxpayers to take advantage of the dependent care tax credit on the short as well as long form. Senator Dole, I want to take this opportunity to thank you for your assistance in writing the I.R.S. to urge that this line be included in future I.R.S. tax forms.

There are, however, many low-income families who pay too little in taxes to take advantage of any tax credit, and yet earn too much to qualify for federally subsidized dependent care. For these families, refundability is a needed and necessary element of the tax credit.

Although I consider refundability the key element of this amendment, the other two provisions are vitally important to ensure the availability of childcare services at affordable prices. This amendment would increase the sliding scale tax credit. The implementation of a sliding scale was a significant step toward improving low-income families' access to this tax credit, but we need a scale that is in line with economic reality. A scale that peaks at 50 percent for low income families provides a more realistic level of support for dependent care expenses. Recent figures reveal that the average benefit claimed by families earning under $10,000 equals less than $4 a week. Now, these same families will be able to receive a credit of up to $25 a week, enhancing their ability to make choices about the quality of dependent care they seek. This will go a long way toward providing adequate dependent care for both low and middle income families.

Finally, this amendment would make it easier for non-profit childcare centers to qualify for 501(c) tax-exempt status. The lack of adequate funding for families is not the only problem, there is also a shortage of accredited childcare facilities. This amendment would permit non-profit dependent care centers to receive tax-exempt status by easing the requirement that the centers prove their educational purposes curriculum. The centers would qualify upon proving that their services would be available to the general public for the purpose of enabling individuals to be gainfully employed. This provison is intended to encourage the creation of additional dependent care slots and improve the availability of dependent care to children, the elderly, and the disabled dependent.

Mr. Chairman, I believe that this legislation brings much needed relief to families who need outside care for their dependents, whether they be children, elderly or disabled adults, when other family members are at work. I urge the Committee to give favorable consideration to the needs for this legislation.

Senator **Durenberger**. Thank you very much. I recall as a newcomer to this body you spent a good part of your first year working on this issue and we spent a good part of a week, I think, on the floor with the first tax bill, dealing with your willingness to go up against the parameters of we can only raise or cut—I think we were cutting in those days—cutting $40 billion and we can't do all the things we'd like to do, and sticking in there through that whole process for dependent care credits, and I appreciate it a great deal.

Senator Packwood?

Senator **Packwood**. No questions, although I've got to thank Paula for the leadership that she took. We only got half a loaf last time.

Senator **Hawkins**. That's why you're here. We'll come back and get the other half.

Senator **Packwood**. That's right. And then we get half a loaf this time of the half that's remaining. We never quite get everything because half of a half of a half of a half never gets to one, but we'll get 95 percent of what we want if we keep plugging away at it.

Senator **Hawkins**. Thank you. I appreciate both of your support. I remember when we voted on it the first time. It was the first amendment I'd ever introduced in the Senate and I was really perplexed when one Senator dared vote against it. I am now amazed that that's all the opposition that we had. Thank you so much.

Senator **Durenberger**. Thank you very much.

The next listed witness is Senator Arlen Specter. I don't see him here, but it doesn't mean he isn't here. He's not here.

We'll call Hon. Olympia J. Snowe, U.S. Representative from the State of Maine. Somebody said she's here somewhere. Oh, behind me. Great. Terrific.

Maybe the best thing is if we have all three of you up, if you'd like to do that, if everyone is here: Barbara Kennelly and Geraldine Ferraro, or whichever.

Barbara, welcome. Olympia, you were introduced first, or you are first on the list, so you may proceed with your testimony. We welcome all of you and we welcome particularly the efforts that you all have put in on the House side starting 2½ years ago as I recall and coming back every year, and the help that you will be to us in these 2 days of hearings.

STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. REPRESENTATIVE, STATE OF MAINE

Congresswoman **Snowe**. Thank you, Mr. Chairman.

As the Republican cochair of the Congressional Caucus on Women's Issues, I want to congratulate you on holding these hearings this morning. Congresswoman Pat Schroeder will be here to offer her views as well as Congresswoman Geraldine Ferraro. Hopefully they will be here shortly.

You have provided, Mr. Chairman, this Congress with a unique and critically important opportunity to examine both the economic status of women and some of the important steps that need to be taken to remedy these injustices.

The Economic Equity Act of 1983 is a vitally needed, well-crafted piece of legislation that will eliminate some of the primary inequities facing women in this country today. The provisions of the act touch the lives of virtually every woman in this country through badly needed reforms in the area of pension and tax policy, insurance, dependent care and child support enforcement.

Women's role in society has dramatically changed over the last 25 years and in many instances women are penalized by laws which fail to reflect these changes. So I believe the Economic Equity Act will reform existing laws to more realistically address where women are today. Women are married, they have children, they have jobs. They are single heads of households who are struggling to make ends meet. In middle life they are trying to reenter the work force as well as assuming the responsibility of taking care of an older relative. They're older, living alone and relying solely on a small social security benefit.

The Economic Equity Act consists, as you know, Mr. Chairman, of five titles. Each addresses an area in which women face economic discrimination. The five areas addressed are: Tax and retirement matters, dependent care, nondiscrimination in insurance, regulatory reform, and child support enforcement. My colleagues, Geraldine Ferraro and Barbara Kennelly, have introduced separate pieces of legislation which deal with the provisions of child support enforcement, spousal IRA's, and private pension matters, and they will be addressing these issues in their own testimony.

I would like to take this moment to briefly highlight two sections of the bill: Title I which concerns itself with displaced homemakers and head of household tax status, and title II which concerns itself with dependent care.

As you know, Mr. Chairman and members of the committee, women who maintain families constitute an ever-increasing proportion of poor Americans. We know that 1 out of 3 families headed by a female lives in poverty compared to 1 out of 18 headed by a man. We also know that female heads of households with children 18 years or younger increased by 82 percent between the years 1970 and 1980; 84 percent of heads of households in this country are female. The Economic Equity Act will address this issue by providing a head of household zero bracket amount equal to the amount given married couples who file jointly.

As you know, Mr. Chairman, the head of household zero bracket amount is $2,300 compared to the married couple who files jointly and receives an amount of $3,400. Yet head of households incur the same financial obligation and expenses as the married couple. One has to maintain a home and take care of dependents. Yet a head of household averages half the income of a married income. In fact, we know that a married couple averages maybe $20,000 of income whereas a head of household averages around $10,000.

The Economic Equity Act will also provide a tax credit for more than 4 million displaced homemakers in this country—individuals who are trying to enter or reenter the work force after spending long periods of time at home raising their families. Lack of recent work experience as well as marketable skills have placed them at an employment disadvantage. They do not have the necessary skills to enter the labor force today. The Equity Act would simply expand the targeted jobs tax credit to include this category of women so that the employers have an incentive to hire this group of individuals.

Mr. Chairman, we also know that progress in guaranteeing financial security to women will be limited unless we address the issue of dependent care. Women bear a disproportionate share of the responsibility in taking care of their dependents throughout their lifetimes. Since 1976, the dependent care tax credit has helped many working families meet the caregiving needs of their dependents such as children, elderly relatives and disabled dependents.

The Economic Equity Act in this case would expand the current sliding scale in the law from 30 to 50 percent for those individuals who earn $10,000 or less. We are trying to help families who are in the greatest need of assistance. We also include a refundability provision. This provision was passed in the Senate in 1981, but was omitted in the House and Senate conference. This provision is essential because we're saying we're going to provide low-income families with the same access to tax credits as families with high incomes. We also think this is essential because low-income families are probably in more need of this tax credit and the only way they will have access is if it is refundable.

These provisions of the dependent care tax credit represent a cost-effective way of assisting our most vulnerable Americans. Just consider for a moment that an estimated 6 to 7 million children 13 years or younger, many preschoolers, go significant parts of each day without care because their parents are working. We also know that 46 percent of pre-school children have working mothers or working parents. More than one in five women are unemployed because they cannot make satisfactory day care arrangements. We also know that one in eight women has been forced to retire because they have had to take care of somebody at home. One in ten middle aged women between the ages of 45 and 65 have the responsibility of taking care of an elderly relative. So the expansion of the dependent care tax credit is absolutely essential because it will help these families who not only are in greatest need, but will do it without extracting a great toll, a heavy burden from members of society who can least afford it.

Finally, Mr. Chairman, the drastic need for this legislation cannot be overstated. It is certainly long overdue in my estimation. However, the Economic Equity Act cannot supplant the need for a constitutional guarantee to achieve full equality for women in this country. We know that the two have to go hand in hand. The causes of economic discrimination are numerous and complex and can only be eliminated through a multifaceted approach as embodied by the Economic Equity Act.

Finally, I would say that full achievement of economic security for women cannot be guaranteed unless we also take strong actions to insure pay equity and equal opportunity in the workplace. This is also essential. And finally I might say the availability of affordable, quality day care is an absolute prerequisite to achieve economic equity for women. I believe, in conclusion, that the Economic Equity Act is a necessary step toward eliminating the barriers so that women can acquire full equality as well as the potential for top advancement in society.

With that I thank you. Congresswoman Pat Schroeder, who is the Democratic cochair, is here.

[The prepared statement of Congresswoman Snowe follows:]

STATEMENT BY CONGRESSWOMAN OLYMPIA SNOWE

Mr. Chairman, as the Republican Co-Chair of the Congressional Caucus on Women's Issues, I, too, want to congratulate you on holding these hearings. You have provided this Congress with a unique and critically important opportunity to examine both the economic status of women and some of the important steps that can be taken to remedy these injustices.

The Economic Equity Act of 1983 is a vitally needed and well-crafted package of legislation that will eliminate some of the primary inequities facing women. The provisions of the Act touch the lives of virtually every woman in this country through badly needed reforms in the area of pensions, tax policy, insurance, dependent care and child support enforcement.

Women's role in society has changed dramatically over the last 25 years, and in many instances, women have been penalized by laws that fail to reflect these changes. Passage of the Economic Equity Act will reform existing law to more realistically address women where they are today—married, with a job and children; as single heads of households struggling to make ends meet; in mid-life, reentering the workforce and perhaps caring for an elderly parent; or older and alone, living on only a small Social Security benefits.

The Economic Equity Act contains five titles, each addressing an area in which women face economic discrimination. The five areas addressed are: tax and retirement matters, dependent care, non-discrimination in insurance, regulatory reform, and child support enforcement. My colleagues, Geraldine Ferraro and Barbara Kennelly, have introduced separately the provisions dealing with private pension reform, spousal IRAs, and child support enforcement, and will discuss them specifically in their testimony. I would like to briefly highlight the provisions of Title I that address displaced homemakers and head of household tax status, and Title II dealing with dependent care.

Women who maintain families constitute an ever-increasing proportion of poor Americans. Tragically, one in three families headed by a woman lives in poverty, compared to one in 18 headed by a man. Moreover, the number of female heads of household with children under 18 increased by 82 percent between 1970 and 1980. The EEA will provide desperately needed assistance to these women, by allowing single heads of household access to the same zero bracket amount on their Federal income taxes as married couples filing jointly. Under current law, heads of household are entitled to a $2,300 zero bracket amount, while married couples are entitled to $3,400. Heads of household incur the same kinds of expenses such as supporting a dependent and maintaining a house as married couples, yet average half the income.

The EEA will also provide a tax credit for the over 4 million displaced homemakers in this country who are faced with entering or reentering the labor force after years at home with their families. Lack of recent work experience and marketable skills place them at an extreme employment disadvantage. The Equity Act would simply expand the Targeted Jobs Tax Credit program to include this group.

Mr. Chairman, our progress in guaranteeing greater financial security to women will be limited unless we also address the issue of dependent care. Women bear a disproportionate share of the responsibility in caring for their dependents throughout their lives. Since 1976, the dependent care tax credit has helped many working families to better meet the caregiving needs of children and elderly and disabled dependents.

The Economic Equity Act would expand the current sliding scale for the dependent care tax credit to provide a more realistic level of support to working families in greatest need of this assistance. This legislation would also make the credit refundable for those lower income families whose tax credits exceed their tax liabilities. The Senate approved refundability for the tax credit in 1981, but it was dropped from the bill in the House-Senate Conference.

These provisions of the dependent care tax credit represent a cost-effective way of assisting our most vulnerable Americans. An estimated 6 to 7 million children 13 year old and under, including many preschoolers, may go without care for significant parts of each day while parents work. More than one in every five women is unemployed because she is unable to make satisfactory child care arrangements. One in ten middle-aged women between 45 and 65 has responsibility for an older relative. Expansion of the dependent care tax credit will help families provide better care for their loved ones, without extracting a heavy toll on the members of our society least able to afford it.

Mr. Chairman, the drastic need for this legislation cannot be overstated. Passage of the Economic Equity Act will not, however, supplant the need for a constitutional guarantee of equality for women. Rather, the two go hand in hand. The causes of economic discrimination against women are numerous and complex, and will be eliminated only through a multi-faceted attack.

Women will not realize full measure of economic security until strong actions are taken to insure pay equity and equal opportunity in the workplace. The availability of affordable, quality day care remains a prerequisite to economic equality for women, as well, Passage of the Economic Equity Act of 1983 is a necessary step in the fight to eliminate all barriers to full equality for women.

Thank you.

OLDER WOMEN: THE ECONOMICS OF AGING

(The Women's Studies Program and Policy Center at George Washington University in conjunction with the Women's Research and Education Institute of the Congresswomen's Caucus)

FOREWORD

To meet a clear need for policy-oriented research on issues affecting women, an alliance was formed in 1979 between the Women's Studies Program and Policy Center (WSPPC) at George Washington University and the Women's Research and Education Institute (WREI) of the Congresswomen's Caucus. The economic status of older women was the subject identified by the members of the Congresswomen's Caucus as one of major concern to them. The Rockefeller Family Fund generously provided funds to support a year-long research project on this subject which was initiated in early 1980.

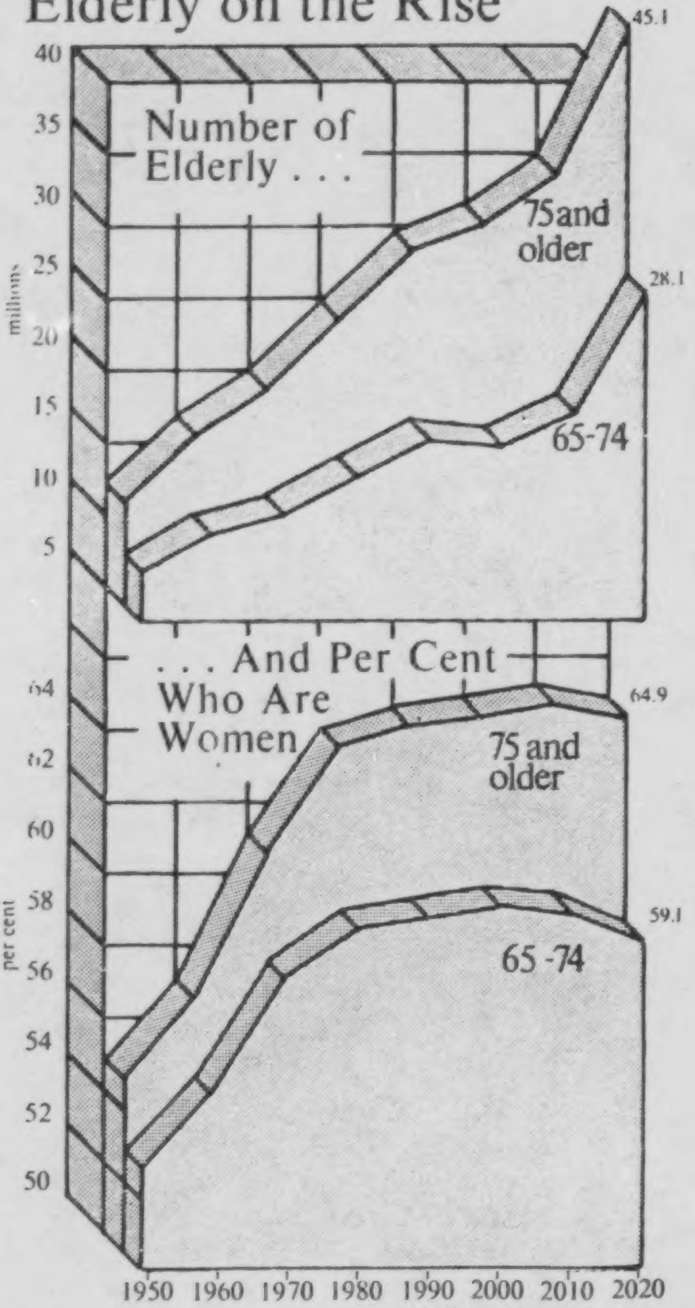
This working paper is the result of the first phase of the project. It is designed primarily for use by policymakers and other interested parties to define the economic status of older women and to analyze the factors affecting this status. Some public policy options that might be helpful in meeting the needs of these women are also suggested. Other more specific questions regarding public policies to assist older women will be examined in the next phase of this project.

The location of the two sponsoring organizations in the nation's capital provides exceptional opportunities to bring together policymakers with researchers and activists from the public and private sectors in order to examine major policy issues regarding women. This capacity to incorporate the perspectives of academic, governmental and nongovernmental specialists enhances the effectiveness of each individual involved and provides a more comprehensive analysis of policy questions than is possible under different circumstances.

Consequently, the goal throughout this project has been not only to collect data by traditional methods, but also to unite policymakers, researchers and activists in the interest of developing social policy and to increase general awareness of the special needs of aging women. To accomplish these objectives, three different kinds of activities have taken place thus far this year. (1) A policy forum on the topic, "Older Women and Public Policy" was held at George Washington University in February. Guest lecturers were Myrna Lewis, psychotherapist, and Dr. Robert Butler, director of the National Institute on Aging. Over 200 representatives of governmental and nongovernmental organizations concerned with the aging and women attended. (2) A day-long seminar in April brought together 50 specialists from government, universities, and private organizations who participated in a research coalition to consider economic issues affecting older women and to develop policy options on their behalf. (See Appendix for the program and list of participants.) (3) Data collection, analysis and compilation was conducted by WSPPC graduate students.

Appreciation is hereby acknowledged to the following individuals, agencies and organizations that have generously contributed to the development of this working paper.

Elderly on the Rise



SOURCE: Census Bureau

Section I

THE AGING PROFILE

INTRODUCTION

Older women in America have been largely invisible, the reality of their lives obscured by myth and benign neglect. In order to examine the economic status of this group, a definition of age and the dimensions of the older population must be determined.

To establish the age at which people are considered old is challenging. It is well known that the biological changes signalling the onset of aging vary among individuals. Less well known is the fact that the social changes which delineate growing older also vary. The traditional benchmark is 65 years, the age at which most men retire from active participation in the labor force. In contrast, women's lives follow a different pattern. They may withdraw from the labor force in favor of home and family responsibilities, and then return as their children mature and become independent. Widowhood or divorce often affect abrupt change in their roles as wives and mothers at varying ages. Such changes often propel women into the labor force at much later ages than are typical of men, a factor with long-range impact upon their retirement age. Consequently, in this paper, we have sought flexibility in selecting an age for defining older persons, relying on traditional statistical data based on age 65, while at the same time recognizing that women's life patterns may vary from the traditional norm.

One of the most significant demographic changes in this century has occurred among the aging. The older population in the United States is large and continues to grow rapidly. In 1900, persons 65 years and over constituted about 4 percent of the total population, while in 1978 they made up 11 percent of the total. In 1978, there were 24.1 million people over 65 and by the year 2000, it is conservatively estimated that there will be approximately 30.6 million older Americans.[1]

Within this expanding group, there are several variables that determine behavior and need for assistance.

SEX

THE MAJORITY OF THOSE 65 AND OVER ARE WOMEN.

Women comprise 59 percent of persons 65 and over. Less than fifty years ago, there were about as many older females as males but by 1978, for every 100 females there were only 69 males. In 1978, women 65 and older numbered 14.3 million, in contrast to men who numbered 9.8 million, a difference of 4.5 million. The sex differential in life expectancy at age 65 is widening and projections indicate that it will continue to do so. Women who reached age 65 in 1976 had an average of 18 years of life remaining compared to 13.7 years for men of the same age -- a difference of 4.3 years. (See Tables 1 and 2 in Appendix.)

AGE

WOMEN OUTNUMBER MEN TWO TO ONE IN THE RAPIDLY EXPANDING POPULATION OVER 75.

With increasing life expectancy, the number of persons 75 and over is rising most rapidly among the aging population and women comprise 64 percent of this group. In 1978, there were 9,120,000 people in this age group; 5,829,000 women and 3,290,000 men. The growth of the oldest segment of the population is highly significant since this group is more likely to experience health and mobility impairment and to require the greatest need for health care and other supportive services. (Table 2.)

Furthermore, the proportion of people in their early sixties who have parents and older relatives still alive is also rapidly expanding. In 1960, there were only 34 persons 80 and above for every 100 persons 60-64, while by 1970, there were 46. By the year 2000, the ratio will be at least 70 per 100, assuming no further medical advances.[2] The growing number of "old-old" (80+) people has particular implications for women. The majority of very old people are not institutionalized but many who are frail need assistance to maintain themselves in the community. The care of an aging parent falls almost exclusively on daughters and daughters-in-law since sons rarely assist with those tasks that encourage independent living, such as cooking and shopping.[3] Consequently, more women in the 60-64 age group will become responsible for the elderly, which may pose difficulties when added to their increasing employment responsibilities and other problems associated with aging. If these women are unable to provide assistance to older relatives, then alternative sources of care must be provided for the growing numbers of "old-old" people who are among the most vulnerable of the aging.

RACE AND ETHNICITY

WOMEN PREDOMINATE AMONG RACIAL AND ETHNIC GROUPS OF ELDERLY.

Among the important variables that affect the well-being of the aging are race and ethnicity. Within the aging population, these factors account for marked differences in life expectancy, socioeconomic status and access to formal and informal support systems. Recognition of this racial and cultural diversity is essential for sound, comprehensive policymaking that will address the needs of all the elderly.

While more but still limited data has become available recently on the status of Black elderly and those of Spanish origin, little is available on older Americans of European-ethnic origin. Furthermore, much of the data that is available on specific groups is not comparable across racial and ethnic categories. It is anticipated that more comprehensive information on particular groups will become available following the 1980 Census.

Older women outnumber older men in most racial and ethnic groups, although the proportions vary because of differences in life expectancy and migration patterns. (See Tables 1 and 3.)

In 1978, of all women 65 and over, approximately 91 percent were White women, 8 percent were Black women and 2 percent were women of Spanish origin. Thirteen percent of all White women were 65 and older, while 8 percent of all Black women and 5 percent of all women of Spanish origin were in this age group.

The number of elderly Black women has increased by 26 percent since 1970 in contrast to a 13 percent increase for White women. The relatively larger increase among Black women is attributable to greater reductions in age-specific mortality rates for Black women than for White women. Black women, however, continue to have a lower life expectancy than White women.

Approximately one-third of foreign born American women were 65 and over while 18 percent of those of foreign or mixed parentage were in this age group. The concentration of older people in the foreign born population is the result of immigration policies in the past century. Following the curtailment of immigration after World War I, this has become a diminishing group, now accounting for approximately 12 percent of all those 65 and over. These conclusions, however, are based on 1970 Census data and do not reflect the new waves of immigrants arriving in this country in recent years.

Race and ethnicity are important determinants of the residential patterns of elderly people. While about one-third of all older persons live in central cities and one-quarter live in rural areas, one-half of all Blacks 65 and over live in the central city and one-quarter live in rural areas. Elderly of Spanish origin are heavily concentrated in urban areas, with one-half living in central cities and only 14 percent residing in rural areas.[4]

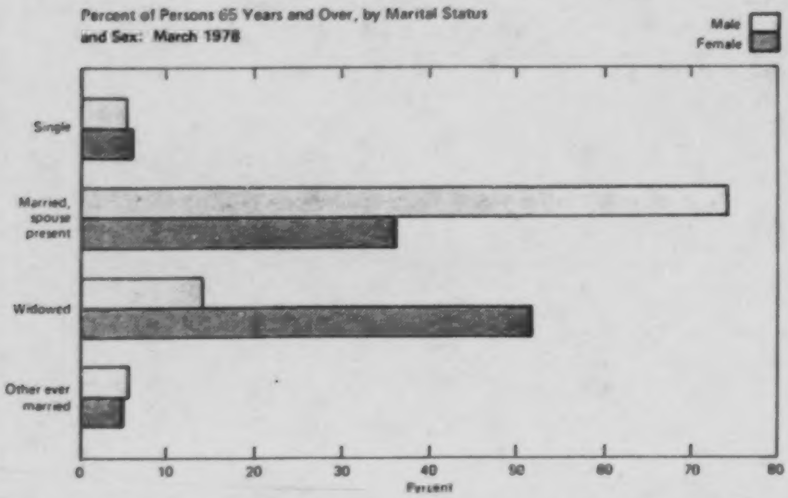
MARITAL STATUS

THE MAJORITY OF OLDER WOMEN ARE WIDOWS WHILE MOST OLDER MEN ARE MARRIED AND LIVING WITH THEIR WIVES.

Contrary to the widely publicized view that most older people are married and living in families, it is important to recognize that the proportions of women and men in family situations differ significantly. There are several reasons for this disparity. Because the mortality rate is much higher for men than for women and because older men tend to marry younger women, more older women than men are widowed in their later years. Also, although men generally marry at an older age than women, they usually die at a younger age. Therefore, men spend a greater portion of their lives married than women do.

Fifty-two percent of women 65 and over, and 69 percent of those 75 and over had a deceased spouse in 1978 as opposed to 14 and 23 percent respectively of men in the same age group. In contrast only 37 percent of the women 65 and over were married with husbands present while 75 percent of the men in this age group were married and living with spouses. (Table 4.)

The numerical dominance of women in the older age groups makes the difference in marital status even more striking. In 1978, there were 8,414,000 unmarried (single, widowed, separated, and divorced) women 65 and over, of whom 6,917,000 were widows. In contrast, there were 2,312,000 unmarried men in this age group, of whom 1,300,000 were widowers.



Census Bureau

Among Blacks, a smaller proportion of older women (27 percent) were wives compared to 36 percent of all older women and a smaller proportion of men (69 percent) were family members, compared to 82 percent of all older men. Black women, however, were more likely to maintain families without a husband (21 percent) than were White women (8 percent). Among those women 75 and over, Black women (78 percent) and women of Spanish origin (77 percent) were more likely to be widows than were White women (68 percent).

Widowhood is the marital status of the majority of older women and is also long lasting. The average widow who does not remarry and dies a natural death will have spent 18 1/2 years in this last portion of life. For many women, this period as a woman alone following marriage is longer than the period from entrance into first grade until marriage.[5]

One factor accounting for the higher proportion of widows than widowers is the higher remarriage rates of widowers, who often marry women under 65. Comparing the marriage rates of males 65 and over with those of females, the annual marriage rate (per 1,000 persons) for females 65 and over was 2.4, while for males, it was 16.7.[6] These figures indicate that older men are seven times more likely to remarry than women. The higher remarriage rate of widowers is the result of social norms supporting marriage to younger women and discouraging the opposite, and the surplus of women in the marriage market.

Relatively few of today's elderly women are divorced or separated. Despite rising divorce rates among younger age groups, current projections indicate that many divorced persons marry again and most wives outlive their husbands, hence it is likely that in the future, as today, most older women will be widowed.

In recent years, a new group with special needs has been identified -- the displaced homemakers. These are women generally over the age of 35 who have remained at home to care for their families and lose their means of support through the death of their husbands, separation or divorce. They are too young to collect Social Security, have little work experience, do not qualify for unemployment insurance, and are unable to collect under a husband's pension plan. Estimating the number of these women is difficult since they have not been counted by the Census or by federal programs. It is conservatively estimated that there are between 3 and 4 million displaced homemakers.[7]

LIVING ARRANGEMENTS

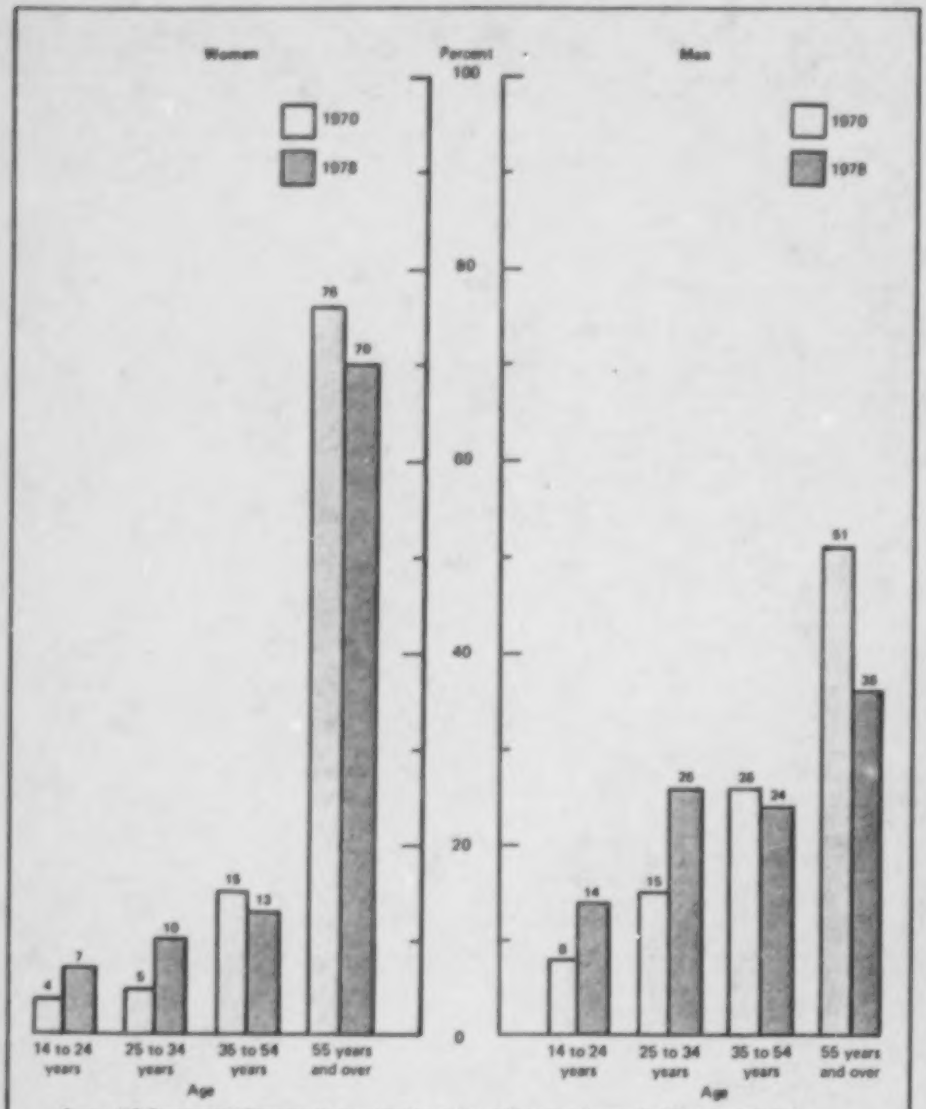
OLDER WOMEN ARE MORE LIKELY TO LIVE ALONE THAN OLDER MEN.

The living arrangements of the elderly are determined by several factors: marital status, age, physical and financial resources.

It is commonly believed that most elderly live with other family members but in the case of older women, this is not true. For example, among the most vulnerable of elderly women, those 75 and older, only 21 percent were wives living with spouses and 20 percent lived with another family member. (Table 5.)

A clearly emerging trend in recent years has been the tendency of older persons to live alone. In fact, those 55 and older are more likely to live alone than those in any other age group. Because of the predominance of widows, however, older females of all races are more likely to live alone than the males in their age group and the proportion of each sex living alone increases with age. Almost half of the women 75 and older lived alone in 1978, compared to 21 percent of the men in this age group.

Age Distribution of Persons Living Alone, by Sex: 1970 and 1978
(Persons 14 years and over)



Source: U.S. Department of Commerce, Bureau of the Census, Current Population Reports, No. 338; and unpublished 1970 Current Population Survey data.

Racial and ethnic variations occur in regard to living arrangements. Older White and Black women are more likely to be heads of households or living alone than are women of Spanish origin. At the oldest ages, 49 percent of White women 75 and older and 43 percent of Black women were in this category in 1978 as compared to only 28 percent of women of Spanish origin. Half of the women of Spanish origin in this age group were living with another family member (not a spouse), more than double the proportions in the other non-Spanish groups.

Marital status has other implications for the living arrangements of the elderly. Because husband and wife can help each other, it is more likely that the married elderly can maintain themselves in their own homes better and longer, even when both may have chronic infirmities, than can the older women and men who spend their later years alone. Consequently, the living arrangements of the widow may be more complex and precarious than those of the married woman.

Furthermore, housing represents an important source of equity for older people. Three out of four of the 15 million households maintained by people over 65 are owner-occupied households and most have paid off their mortgages. Here again marital status is significant. Approximately one-third (3,360,000) of the elderly homeowners are women, primarily widows, who are living alone or with nonrelatives while one-half (2,171,000) of those who rent homes or apartments are women in similar circumstances. (Table 6.) As family needs change, some older people, particularly older women who are living alone, might choose to move to smaller, more efficient and less burdensome dwelling places while others are compelled to do so by economic circumstances.

Additional differences between the living arrangements of married couples and women who are living alone have been found. For homeowners, the housing of elderly women living alone tends to be older and of lower market value than of elderly couples.

Although an expenditure of 25 percent of annual income for housing is generally considered reasonable, over two-thirds (69 percent) of the older women alone who rented their homes paid 35 percent or more of their annual income for housing, compared to 30 percent of the married couples. Among women 75 and older, three out of four paid more than 35 percent of their cash income for housing.[8]

It is noteworthy that contrary to the popular assumption that large numbers of the elderly live in institutions, in fact only 5 percent of the population 65 and over do so. In 1976, 31 percent of those 65 and over in long-term care institutions were men: 68 percent were women. Thus, women outnumbered men not only among the older population generally, but this is particularly so among the population living in institutions where women outnumber men 2 to 1. Of the institutionalized population, 65 percent are White women while those of other races comprise only 3 percent. In contrast to earlier years when most elderly were confined in mental institutions, almost all (96 percent) of those elderly living in institutions are in homes for the aged or nursing homes.

INCOME

OLDER WOMEN HAVE CONSIDERABLY LOWER INCOMES THAN OLDER MEN.

The sources of income for people 65 and over include Social Security benefits, pensions, earnings, savings and other assets, family contributions, and government programs designed to supplement poverty level incomes. Social Security is the major source of income for most older people. However, for both married couples and those individuals who are unmarried, (single, widowed, separated or divorced) the availability of supplemental resources is crucial in determining whether or not they have adequate incomes.

Median Income

Total median income for people age 65 and over differs according to several variables, including sex, race, marital status and age. In making such comparisons, it is important to recognize the fact that older women, particularly those who are widows, are the largest group numerically. (Tables 7, 8 and 9.)

* In 1977, the median income of females ($3,087) was lower than that of males ($5,526).

* Black males had lower incomes ($3,463) than White males ($5,805) with Black females receiving lower incomes ($2,385) than White females ($3,186).

* The median income of married couples age 62 and over was $9,340 in contrast to the income of an unmarried woman living with relatives ($3,128) or the unmarried woman living alone or with non-relatives ($3,859).

* The income of the unmarried woman declines from $5,112 at age 62 to $3,641 at age 72 and older.

Social Security Income

Although Social Security was never intended as the primary source of income, more people age 65 and older receive Social Security benefits than any other type of income. Income from Social Security was received by 90 percent of couples, 88 percent of unmarried women and 87 percent of unmarried men.

Unmarried women are more likely than either couples or unmarried men to have no income source other than Social Security. Sixty percent of these women depend solely on Social Security while only 46 percent of the men do so.[9] For everyone, however, the importance of Social Security cannot be overstated.

Besides being dependent only on Social Security to a greater extent than men, the benefits received by women are lower. The average Social Security income for all aged women in 1978 was $2,537 compared to $3,390 for men.[10]

Table A

Percent of People Age 65 and Older Receiving Income From Major Sources, 1976 1/

	Couples			Unmarried Women			Unmarried Men		
Sources of Income	Total	65-72	73+	Total	65-72	73+	Total	65-72	73+
Total Number (in thousands)	6,799	4,073	2,726	8,168	3,506	4,662	2,353	1,141	1,213
Percent receiving:									
Social Security........	90%	87%	95%	88%	88%	88%	87%	83%	91%
Pensions...............	42	42	40	22	24	20	32	33	32
Private 2/...........	28	30	26	12	14	10	21	22	20
Public 2/............	16	15	16	11	11	11	12	12	12
Asset Income.............	66	66	67	51	52	50	44	39	48
Interest only..........	35	36	34	30	30	30	27	25	29
Rents, dividends, estates...............	31	30	33	21	22	20	17	14	19
Earnings..................	41	51	25	14	23	7	21	28	13
Only husband employed..	18	23	12	--	--	--	--	--	--
Only wife employed.....	10	12	7	--	--	--	--	--	--
Both employed..........	12	15	5	--	--	--	--	--	--

1/ Percents may not add to total due to independent rounding.

2/ Includes total families receiving this income; some families receive both private and public pensions.

Source: U.S. Department of Health, Education and Welfare;
Social Security and the Changing Roles of Men and Women, February 1979

Table B

Median Pension Amount for People Age 65 and Older: 1976

	Median Private Pension	Median Public Pension
Men	$2,060	$4,830
Married	2,150	4,920
Unmarried	1,830	4,250
Women	1,340	2,750
Married	1,310	2,960
Unmarried	1,350	2,660

Table C

Median Income from Major Income Sources of People Age 65 and Older: 1976

Sources of Income	Couples	Unmarried Women	Unmarried Men
Social Security	$4,090	$2,380	$2,530
Pensions:			
Private	2,150	1,350	1,830
Public	4,990	2,660	4,250
Assets:			
Interest Only	590	340	470
Dividends, Rents, Estates	2,230	1,660	1,680
Earnings	4,065	2,040	2,300

Pension Income

Pension income is an important component of retirement income for aged people. Those receiving pension income are generally better off financially during retirement than those who do not receive such income. Although pension income can be a significant source of retirement income, less than half of the aged in every marital category receive such income. While 42 percent of the married couples receive pension income, 32 percent of the unmarried men receive such income and only 22 percent of the unmarried women do so.

Even when women do receive pensions, either through their own or through spouse's entitlements, they get a lower dollar amount from both public and private pensions: the median private pension amount for older men was $2,060 and for women was $1,340 while the median public pension amounts were $4,830 for men and $2,750 for women.

Asset Income

Asset income is also defined as a major source of income. In many cases, asset income was from interest on savings accounts only, and the amount tended to be small. Income from other forms of assets was less widely received. The asset income from these sources tended to be higher than interest income and higher for couples than for unmarried people.

Earnings

Earnings are an important source of income for those who have them. Older women are less likely to have earnings and their wage and salary income is significantly less than that of men's. Unlike pension and asset income, receipt of earnings declines sharply with age. The average wage or salary income for older women was $4,190 compared to $8,429 for men. Again, older unmarried women made less than unmarried men ($2,040 and $2,300 respectively), and couples earned still more ($4,065).

Poverty

In recent years, the economic status of the older population has improved, due in large part to substantial increases in Social Security benefits since 1970. Since that time, the proportion of elderly people in poverty has declined from 25 to 14 percent in 1977. Still this figure implies serious hardship for a significant proportion of the aging.

Elderly males living with their wives or with other family members experienced the greatest decline in poverty during the 1970's. Slower rates of decline or no decline at all were experienced by females, minorities and those who live alone, groups that have been growing in size most rapidly and are projected to continue increasing at rapid rates.

The incidence of poverty varies significantly between sex and race groups and according to marital status. Women accounted for approximately 70 percent of the aged people in poverty in 1977. For Black aged women and all aged unmarried women (often living alone), escape from poverty has been the most difficult. These groups continue to be disproportionately represented among those aged people in poverty. While only 8 percent of the women 65 and older in families (601,000) were below the poverty level, 28 percent of all women living alone or with nonrelatives in this age group (1,615,000) and 61 percent of Black women in the same category (263,000) lived in poverty. The sharp contrast between race and sex groups can be seen most easily when all older White men are compared with all older Black women. Forty-one percent of Black women lived in poverty, while only 8 percent of White men of this age group were poor. (Table 10.)

Many analysts believe that the dollar amounts of the poverty thresholds are unrealistically low. For example, the Bureau of the Census Poverty Guidelines for those 65 and over (non-farm) in 1979 was $4,390 for couples, $3,520 for a single male and $3,470 for a single female.

In addition, the Census Bureau regularly tabulates data using a variation of the poverty index that is referred to as the "near-poverty" index which is a set of thresholds set 25 percent higher than the poverty level. Taking into account the near-poverty threshold, the decreases of poor elderly are not as great as they first appear. For example, a study based on such calculations increased to almost 50 percent the proportion of older women living alone or with nonrelatives who were poor. Only 14 percent of the women in families and 42 percent of the unmarried men fell below the near-poverty measure.[11]

SUMMARY

The majority of the elderly are women and this predominance in comparison with men increases with age. Considering only their numerical dominance, the needs of older women merit attention. In addition, there are significant differences between older women and men that indicate the need for special attention to the particular situations in which so many older women live. Large numbers of older women are widows and many live alone, in contrast to older men who are generally married and living with their wives. While the numbers of women alone may indicate a triumph of survivorship and autonomy, they also may denote different needs from those of men. In addition to the psychological problems of being old and alone, advanced age may bring physical problems to older women and they have fewer people to care for them. Due to the traditional place of women in our national economic life, they tend to be poorer and have fewer other financial resources with which to support themselves in their later years than men do. Therefore, an analysis must be undertaken to determine the causes of the economic deprivation experienced by so many older women since economic security is essential to their well-being.

Section II

FACTORS CONTRIBUTING TO THE LIMITED INCOMES OF OLDER WOMEN

Many factors contribute to the economic deprivation experienced by many older women. They are discussed in the following sections.

SOCIALIZATION

Older women may experience particular difficulties as they grow older, more so than men. Their lifelong socialization, encouraged by church, state, school and family, for passive and dependent roles in marriage makes women particularly vulnerable in old age when they may be alone. Traditionally their role in marriage has been characterized by economic, social and psychological dependency. Most women do not anticipate that they may spend years alone as widows or that they may have to function independently. Their skills and experience with legal and financial matters, decision-making and employment may be limited. In addition, the years they may have devoted to being wives, mothers and homemakers, and the skills they have developed, are not given economic value in this society. Unlike older men, many older women must confront the economic realities of aging alone and are often ill-prepared by previous experience to do so.

ECONOMIC IMPACT OF MARITAL DISSOLUTION

The problems of income maintenance among survivors of deceased workers or among divorced spouses affects primarily women, since they tend to live longer, do not remarry as frequently and have traditionally been in roles of economic dependency. For widows, the economic consequences may be as follows:

1. Income from the husband's employment, upon which the wife may be dependent, is lost.

2. The financial resources of the couple may have been greatly diminished or totally exhausted by the high costs of the husband's final illness and death.

3. The total average death benefits left by husbands to widows is only $12,000 which includes all income, from life insurance and Social Security to veteran's pensions. Fifty-two percent of all widows will have used up all available insurance benefits within 18 months and 25 percent have exhausted this resource within two months. Twenty-five percent of widows never receive all of their husband's benefits, usually because they lack information to get access to these benefits.[12]

4. Social Security and pension benefits may be inadequate or unavailable.

For women who are divorced at midlife or later, there are also economic consequences which may determine the quality of the remaining years of a woman's life.

1. In the typical divorce, usually the individual with the highest and often the only income leaves, and this is usually the husband.

2. Contrary to popular mythology, there are only a few wealthy divorcees. Only 4 percent of divorced women receive alimony. While 89 percent of single-parent families are headed by mothers, three-quarters of these women received no child support from fathers.[13] Consequently, many divorced women are thrown upon their own resources not only to support themselves but their children as well. Thus, they may be handicapped by limited employment opportunities, low wages, and the high costs of child rearing in building up economic security for their later years.

3. Provisions for payment of Social Security and pension benefits to divorced wives are limited.

4. Other benefits, such as health insurance, may be lost upon the termination of a marriage. Older divorced women may have difficulty in securing alternative coverage before they are eligible for Medicare at age 65 and Medicare coverage is not comprehensive.

5. Although judges in no-fault divorce cases now often assume that the woman can find employment and support herself, the older a woman is and the longer she has remained out of the paid labor force, the more difficult is her search for satisfactory employment.

LIMITED EMPLOYMENT OPPORTUNITY

Labor Force Participation

In 1978, approximately 12 million mature women (45 years and older) and 19 million mature men were employed or were seeking employment.[14] The labor force participation rate of mature women has risen dramatically since 1950 which is in marked contrast to the declining rate of their male counterparts. (Table 11.) The most striking and steady increases among older women workers have been in the age groups from 50 to 59 years, an age at which many women are forced from a life of economic dependency on marriage partners into financial self-support for the first time in their lives. Mature women, ages 45 to 64, who are divorced, separated or widowed are more likely to be working than are mature married women.[15]

Although mature women's work force participation has substantially increased, mature women earn even less than younger women relative to the earnings of males in their own age groups. While White men's earnings potential increases with age, women's earnings potential stagnates and even declines in later years. The wage gap between women and men broadens with age until age 55, after which women recover minimally. (Table 12.)

Occupational segregation, the combined impact of ageism and sexism, and late or forced entry and re-entry into the labor force, contribute in varying degrees to depress the earnings of older women. Moreover, mature minority women workers suffer racial and ethnic discrimination. The labor force participation rates of mature Black women are higher than those of mature White women yet, Black women's historically higher labor force attachment has brought them the lowest average wages of any group. (Tables 13 and D.)

Occupation

The rising labor force participation rate of women is, to a considerable degree, a function of increased demand for labor from those service occupations and industries historically associated with "women's work." The occupational distribution of mature White women is similar to that of younger White women who are over-represented among clerical workers and concentrated in low-paying occupations and lower status jobs even within higher paying occupation groups.

There are significant changes occurring in Black female occupational placement. Young Black women are much more likely to be in clerical and office work, while older Black women are domestic workers. Whether or not this shift will substantially reduce Black female and male income differences as this group grows older remains to be seen. (Table 14.)

Earnings

In 1970, women age 65 and older who worked year-round full-time had median earnings which were 72 percent of male year-round full-time workers. In 1977, their incomes fell to 57 percent of men's earnings. Male workers 65 and over had a median income for year-round full-time work of $10,540 in 1970 which rose to $13,815 in 1977; their female counterparts had median earnings of $7,622 in 1970 and $7,838 in 1977. Year-round full-time earnings for males age 55 to 64 went from $14,156 in 1970 to $15,669 in 1977; females of similar age earned $8,533 in 1970 and $8,846 in 1977. (Table 12.)

The widest differential between male and female workers was in the age group 45 to 54, ages at which men's earnings peaked ($17,029 in 1977), and women increased their participation at entry and re-entry levels. Women's incomes peaked ($9,543 in 1977) at a much earlier age -- 25 to 34 -- which reflects women's dead-end careers and lack of labor force mobility.

Low earnings among mature minority women are considerably more prevalent than among White women. Median year-round full-time earnings, cross classified by race, sex, and adequate age breakdowns are not available. However, the following Table of the usual weekly earnings of full-time wage and salary workers shows mature Black women to be the lowest wage earners.

Table D

1979 Annual Average
Usual Weekly Earnings of Employed Full-Time Wage and Salary Workers

Age	Black Women	Black Men	White Women	White Men
45-54	$179	$255	$197	$353
55-64	$165	$228	$194	$327
65+	$143	$175	$170	$234

Source: U.S. Department of Labor, Bureau of Labor Statistics, Unpublished Tabulations from the 1979 Current Population Survey.

Full-Time and Part-Time Work

In the 1950 Census of Population, there were more male than female part-time workers, (3.9 million males vs. 3.0 females), but in the 1960 and 1970 censuses, there were more women than men working part-time (8.9 million women vs. 7.2 million males in 1970). In 1978, 10.0 million women were employed part-time or looking for part-time work. Women over age 54 are a disproportionate number of this group.[16] This is attributed to their discouragement in finding opportunities in the full-time workforce rather than as a preference for part-time work.[17]

Unemployment

Compared to older men, older women experience longer durations of joblessness; have shorter job tenure and higher representation among the unemployed; have a greater propensity to discouragement and withdrawal from the labor force, once unemployed; and run a greater risk of being "too old" for adequate unemployment insurance due to fewer years of accumulated work experience relative to men of similar age.[18]

Older Black women experience the highest rate of unemployment of all older age groups. In 1978, the unemployment rate for Black women 55 years and older was 6.2 percent compared to 3.0 percent for White women, 4.3 percent for Black males and 2.4 percent for White males of comparable age.[19]

Education

In 1978, the percentages of persons 65 years and older who had high school educations or more were as follows: 41 percent of White women; 39 percent of White males; 16.5 percent of Black males; and 16 percent of Black females.[20] Labor force attachment of middle-aged women is positively associated with educational attainment. Among White women aged 45 to 54 who did not graduate from high school only 45 percent were in the workforce, while 59 percent of those with diplomas were workers. Forty-eight percent of the 45 to 54 year old female minority non-graduates were in the labor force, but 67 percent of the high school minority graduates were in the labor force.[21] Older Black women have considerably lower levels of educational attainment than their White counterparts and younger Black women; their median educational level is eighth grade or less.[22]

For many years, the relatively limited educational attainment of older workers played an important role in explaining labor force withdrawal. However, the education gap between older and younger workers has narrowed in recent years. In 1966, 40 percent of workers aged 55 to 64 and 70 percent of workers aged 25 to 34 had high school educations compared to 60 percent of workers aged 55 to 64 and 85 percent of the younger workers in 1976.[23]

Sexism/Ageism

The socioeconomic profile of today's older woman is the result of discriminations over a lifetime: what was not done to provide equity for women in their young and middle years.

Older women are victims of a particular synthesis of sexist and ageist prejudice in the labor market. They often find employers unwilling to credit previous work experience and activities while out of the workforce. Consequently, with outmoded job skills, little or no recent work experience, inadequate counseling, and a lack of knowledge of job opportunities, they frequently settle for low-skilled and low-paying jobs which require little or no specialized training and afford limited opportunity for upward mobility.

Contrary to popular views, research findings indicate that there is little change in primary learning ability as age increases and the "alleged disinterest" of older workers in training programs has not been substantiated. Regarding job performance and productivity, government sponsored research results show no consistent pattern of superior performance or productivity in any age group. Greater variation exists within each age group than between age groups. Differences in performance and capacity are less a function of age than intelligence, interests, needs, and career goals.[24]

The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination on the basis of age against any person between the ages of 40 and 70 in hiring, firing, compensation, or other conditions of employment. The law applies to all public employers, private employers of 20 or more employees, employment agencies serving covered employees, and labor unions of more than 25 members. It does not cover situations in which age is a bona fide occupational qualification (such as modeling "junior miss" fashions), nor does it affect bona fide seniority systems.[25] The bona fide occupational qualification (BFOQ) is controversial but its potential for discrimination has been restricted as the courts have continued to define it very narrowly. Victims, however, have not been sensitized to recognize and reject invalid justifications of the BFOQ for what they are -- age discrimination. Youth oriented requirements for many jobs seldom have any relevance to job skills. Unwarranted assumptions of reduced "trainability" and productivity are often used to exclude the older worker from jobs for which training is required.

Most of the cases filed by the Equal Employment Opportunity Commission (EEOC) which now has the responsibility for administering ADEA, have been individual cases concerned with the mandatory retirement of middle-aged White males who comprise the greater percentage of the workforce protected by the Act and who are more likely to be aware of their rights and have the resources to seek redress of grievances. ADEA does not provide for the payment of legal fees. This discourages initiation of legal action by older female employees with lower incomes. To date, no public cases focused upon female age discrimination have been filed or initiated.

In her statement before the Senate Special Committee on Aging, May 7, 1980, EEOC Commissioner Ethel Bent Walsh emphasized the need for expansion of the ADEA focus to include women and minorities. "It is imperative," she said, "that... the ADEA focus be expanded to embrace minorities and women. These groups are jeopardized at both ends of the employment cycle. Too often they were late entries onto the employment rolls, only to face further barriers to training and promotion because of age. Women's groups must recognize that age discrimination in employment is a woman's problem; civil rights groups must recognize that age discrimination is a minority problem. Too often minorities... don't retire. They can't afford to. For minorities and women, the economic answer is continued employment opportunity during later years."

Public consciousness of the specific aspects of female age discrimination is the essential first step. Discrimination against older women workers must not be subsumed under the general issues of sex discrimination; the entwinement of ageism, sexism and racism is insidiously unique.

LIMITED INCOME FROM PUBLIC PROGRAMS AND PRIVATE PENSIONS

A major portion of income to support retired workers and their dependents and survivors comes from public programs and private pensions. In recent years, concerns have been raised over the treatment of women by income maintenance programs which provide retirement income. Various criticisms have been raised in relation to the programs, to the effect that benefits available to women are inadequate in many cases and that inequitable treatment is accorded to some classes of women. For example, as has been demonstrated earlier in this paper, the poverty rate for elderly women is higher than it is for elderly men and the average monthly benefits received by women are substantially lower than the average amount received by men. The following discussion will highlight the special impact that Social Security, private pensions and selected public pensions have on women.[26]

Social Security

In the 1930's, when the Social Security program was enacted, the typical American family was viewed as consisting of a man who was a full-time worker and his wife who was a lifelong unpaid homemaker. This perception underlies the provision of primary benefits for workers and supplementary benefits for their dependent spouses.

Since the 1930's, significant changes have occurred in the patterns of work and family relationships. There has been a substantial increase in the labor force participation rate of women. There has been a continuing drop in the birth rate, which is associated with more women being in the work force. There have also been substantial increases in divorce and remarriage rates. These changes have brought into question the assumptions about income earnings-dependence on which the Social Security program was based.

Women who marry may no longer be lifelong dependents of the same husband or of any husband. Women may no longer remain homemakers for most of their adult lives. Under the current program, a woman can receive benefits as a covered worker in her own right or as a dependent wife, widow or ex-wife of a covered worker, but she cannot receive both benefits in full. If she is entitled to both a worker's benefit and a dependent spouse's benefit, she receives only the higher of the two benefits and loses the other. The two principles most important in reform are those of adequacy and of equity.

A. Issues Related to Adequacy

One area of concern arises from gaps and inadequacies in the protection provided for homemakers as dependent spouses. There has been growing recognition that marriage is an interdependent partnership in which each spouse makes a contribution that has an economic value. Spouses who are not employed perform child care and other homemaking tasks of necessary importance to the family and to the community. These functions may preclude or reduce participation in the labor force and prevent such persons from obtaining primary protection as workers. Dependent's benefits are based on a proportion of the worker's benefit and only payable under certain conditions, e.g. widows can only receive benefits at age 62 or later. Thus, homemakers may have inadequate income protection under Social Security. Since most issues of adequacy derive from the Social Security system's assumptions about dependent homemakers and grew out of its treatment of disappointed dependents, the categories of women affected can be divided by marital status.

* Married Women: To be insured for Social Security disability benefits, a person needs 5 years of covered employment out of the 10 years preceding onset of disability. People who leave the paid labor force for 5 years or more lose disability protection even though they have spent most of their lives in paid jobs. Also, once the protection is lost, up to 5 years of covered work are required to regain protection. Since many married women leave paid employment for 5 years or more to meet family responsibilities, they are more likely than men to be adversely affected by the recent work requirement for eligibility.

Homemakers who become disabled cannot get Social Security disability benefits even though the loss of their homemaking and child care services may be costly for the family to replace and there may be additional expenses related to their disability. The situation is probably most acute in the case of separated and divorced homemakers since they are usually not supported by their husbands or former husbands. In some cases, these women become disabled before having the opportunity to get a covered job (or to work long enough to be insured for benefits) after the separation or divorce occurred and may not be eligible for benefits under the Supplemental Security Income program.

In a number of ways, the Social Security system does not cover someone who has been solely a homemaker or both an unpaid homemaker and a paid worker as well as it covers the person who has held only paid employment. Retirement benefits are based on average earnings over a lifetime, at the current time over a 23 year period and after 1991, over a 35 year period. This long averaging period results in lower average earnings for women than for men because married women typically spend time out of the workforce in homemaking and child care activities. Since only the 5 lowest years are eliminated, every additional year of zero earnings reduces average earnings.

* Widows: The effect of the dependency assumption underlying Social Security is especially acute with regard to widows and widowers because older widows depend primarily on Social Security for support and there are so many more of them than older widowers. Also, this is the age group least affected by changing patterns of female employment and therefore the one most likely to have been women dependent solely on benefits accorded full-time homemakers.

A widow's benefit is related to the standard of living that existed at the time of her husband's death, rather than the standard of living at the time she came on the benefit rolls. Widows are more likely to receive benefits based on outdated earnings, if they reach age 60 from 5 to 10 years after their husbands died. Their benefits are based on his earnings indexed up to the year of his death. These benefits may be worth substantially less by the time the widow is eligible to receive them.

The issue of benefits for widows will affect younger women also, assuming that they continue to have lower average earnings than their husbands and, therefore, choose his survivor's benefits instead of their own lower entitlement.

Widows under age 60 who are not disabled and who do not have entitled children under age 18 (or disabled) in their care cannot receive Social Security benefits. Protection has not been provided for this group on the basis that such women can be expected to work and support themselves. However, lifelong homemakers or women who have been out of the labor force for many years who are widowed in late middle age find it difficult to secure a job, and such jobs are apt to be low paying.

Disabled widows and widowers cannot receive dependent's benefits unless they are age 50 or older, and their benefits are reduced to 50 percent of the deceased worker's benefit at age 50 and to 71.5 percent at age 60. The average monthly benefit paid to disabled widows was $166 in June, 1978.

* Divorced Women: Divorced women of an older generation face problems similar to older widows: disappointed expectations about being recompensed for work at home and lack of experience in the labor market. There are several problems for women in this situation.

The divorced spouse's benefit of 50 percent of the former husband's benefit may be inadequate for a person living alone since the spouse's benefit was intended as a supplement for a married couple.

A divorced homemaker cannot receive a divorced spouse's benefits until the divorced husband reaches age 62 and retires. If he elects to continue working, she is ineligible for benefits until he retires.

The younger woman can likewise face difficulties. A divorced person has no Social Security protection based on the marriage if it lasted less than 10 years, even though it is during the first 10 years of marriage that she is most likely to leave the paid labor force to raise children. A divorced woman's Social Security benefit as a worker may be low because of time spent out of the paid labor force during marriage.

B. Issues Related to Equity

Concerns regarding equity are highlighted by the rapid increase in the number and proportion of married women who work in paid employment. The present system of dependent spouse's benefits worked fairly when one spouse was a lifelong homemaker and the other a lifelong paid worker -- a situation which is much less typical today than in the 1930's.

The major equity issue revolves around the relative worth of benefits given to a dependent spouse receiving benefits through a paid worker and the benefits awarded to spouses who have themselves earned benefits. The system clearly favors women who have remained at home and couples who have earned an income from the husband's work alone rather than two earners earning the income.

The Social Security protection a woman earns as a worker duplicates the protection she already has as a spouse. The protection she receives based on the years she was a paid worker cannot be added to the protection based on the years she was an unpaid homemaker. As a result, an employed woman may get no, or only slightly higher, benefits than she would have received as a dependent who had never worked. The money she personally pays into the system as a result of her own employment is not returned to her in benefits.

Furthermore, the treatment of two-earner couples compared to one-earner couples is viewed as unfair. This issue arises due to the payment of dependent's benefits to spouses who never worked in covered jobs or worked and had very low earnings. Because of the manner in which average monthly earnings are indexed, it is possible for the two-earner couple to receive lower total benefits than the one-earner couple with similar earnings since the spouse's benefits are not generally payable to the two-earner couple. Likewise, the larger the proportion of the couple's earnings that was earned by one spouse, the higher the benefit for the aged survivor. As in the case for couples, the survivor of a two-earner couple generally gets a lower benefit than the survivor of a one-earner couple with similar earnings.

In addition, the system favors couples with a dependent spouse over single workers. The Social Security system provides greater protection for married couples where one spouse is not a paid worker, or is low paid, than for single workers, although all workers pay Social Security taxes at the same rate. Because of the spouse's benefit, a one-earner couple gets benefits that are one and a half times the benefit of a single worker, all other things being equal.

Another equity issue pertains to the two categories of dependent spouses: those who are divorced and those who are widowed. Despite the recent change in the law lowering the number of years divorced wives or widows have to be married to their former spouses (from 20 to 10 years) in order to receive benefits, it is still the case that a woman need only be married for one year and sometimes less to receive a survivor's benefit based on her husband's record; yet a marriage which lasted nine years is of insufficient duration to allow for the payment of a spouse's benefit to a divorced spouse.

Private Pensions

Despite the enactment of the Employee Retirement Security Act of 1974 (ERISA), a significant number of private pension issues remain which affect the retirement income security of women. Although ERISA sets standards that private pension plans must meet, it does not require employers to provide pension plans for their employees. In fact, less than half of the private sector work force is presently covered by an employer-sponsored pension plan. However, it affects women disproportionately. A recent study revealed that 49 percent of men, but only 21 percent of women employed in the private sector were covered by a pension plan on their longest job.

The private pension plans, unlike the Social Security system, were formulated solely on the assumption of equity to workers. They do not reflect concern for total family income and ignore whether or not the employee has a dependent spouse or a spouse with an interrupted work history and earnings lower than her husband. The major problems concerning pensions result, therefore, from the fact that women are not equal with men as workers and consequently, receive lower benefits as workers.

A. Issues for Women as Employees

* Participation, Vesting and Portability Requirements: ERISA does not require plans to accrue benefits for employees who have worked less than 1000 hours during the year, although a high proportion of women workers work part-time or part-year. Also, ERISA does not require that employees be covered under a pension plan from the date they are hired. An employee may be excluded from participating in a pension plan until she or he is at least 25 years old and has at least one year of service. Yet women in the 20-24 age bracket have the highest labor force participation rate among women - 68.3 percent in 1978 and projected to increase to 76.8 percent by 1985. If women are not allowed to participate in the pension plan during these years, they would not be earning or accruing pension credits. Inasmuch as many women work while they are in their early twenties, and then go on a part-time schedule, or leave the labor force to raise a family, the years before age 25 are important, as are periods of temporary or part-time work later in life.

ERISA sets minimum years of service that an individual may be required to participate in a pension plan in order to acquire a "vested" right to a pension. Being covered by a pension plan is no guarantee in itself that the participant will actually receive a pension benefit at retirement. The ERISA vesting provisions permit 10 years of service before any vesting is required, or, if a graded formula is used, 15 years of full service before vesting is required. However, due to the nature of their labor force participation, most women often do not work long enough to acquire a vested interest in their employer's pension plan. Furthermore, while pre-participatory service after age 21 must be taken into account to determine the vested status of the employee, all earlier years of service may be disregarded.

ERISA does not require service with different employers to be combined for purposes of accruing benefits unless the plan is jointly maintained by both employers. This means that a person who never holds a job long enough to vest may never receive any payments from a pension plan. This could happen even to a person who has worked continuously all his or her life.

* Effect of Pension Plan Integration: Women can be more adversely affected than men under pension plans integrated with Social Security. Since Social Security benefits are "weighted" in favor of the lower paid, private plans are permitted under the Internal Revenue Code to "counterweight" their benefits in favor of the higher paid. While based on the idea of coordination between the private and public retirement systems, the practical effect of pension plan integration may be to partially or totally deny private pension benefits to workers whose earnings do not exceed the Social Security wage base (currently $22,900). 2 While the number of women covered under integrated pension plans is not known, it is estimated that about 60 percent of all plans in existence in 1974 covering an estimated 25-30 percent of all plan participants were integrated. Since women's salaries are on the average 60 percent of men's, they would more likely be "integrated out" of the pension plan or receive substantially lower total benefits under the private pension plan than men.

* Benefit Accruals: A certain amount of "backloading" is permissible under ERISA. "Backloading" is the earning of relatively small amounts or percentages of benefits in earlier years of employment and higher amounts or percentages in later years of employment. Under one rule, a plan can have a pension benefit accrual rate that is up to one-third higher in later years than in earlier years. Again, due to the nature of women's employment patterns, they may be adversely affected compared to men under plans allowing backloading, since women generally have fewer years' service and would accrue smaller benefits during the earlier years.

* Breaks in Service: Years of service before a "break in service" may be disregarded and all benefits attributable thereto may be forfeited unless already vested, if the break in service equals or exceeds the number of years of service prior to the break. Break in service rules are not particularly advantageous to women of child bearing age. It is argued that the rule of parity can cause a woman who has a child and stays home until the child is in school full day to lose all pre-break service. This is compounded by the fact that the plan only has to count service after age 21 for purposes of the rule of parity.

B. Issues for Women as Wives and Dependents

* Joint and Survivor Benefits: An important pension plan provision for married women, particularly non-working wives of husbands who are covered by a pension plan, is a joint and survivor annuity. Under ERISA, a pension plan which provides

for the payment of benefits in the form of an annuity must provide a joint and survivor annuity at normal retirement age unless the participant elects in writing not to take the survivor's benefit. An issue of concern in relation to women is the fact that ERISA does not require the consent of the participant's spouse to waive the joint and survivor's benefit. Since the annuity will be reduced if a surviving spouse benefit is elected, some married participants waive the survivor's benefit. Furthermore, if the plan does not provide benefits before the normal retirement age (usually 65), ERISA does not require the plan to provide a survivor annuity if the participant dies before reaching normal retirement age, even if the participant is vested.

C. Issues Due to Gender Differences in Longevity

* Sex-Based Actuarial Tables: Many private pension plans utilize sex-based actuarial tables since women as a group have greater life expectancy than men. As a result, women are sometimes required to contribute more to their pension in order to receive the same benefits as similarly situated men or to receive lower benefits. However, recent court decisions are prohibiting different benefits or contributions based on such tables.

Public Pensions

In recent years, a number of issues have been raised in relation to the impact of certain public pension systems on women. The vast majority of Federal employees (roughly 97 percent) are covered by one of two retirement programs: the Civil Service Retirement (CSR) system or the Uniformed Services Retirement (USR) system. This brief discussion centers upon issues relating to the Civil Service Retirement system. The major issues related to the USR system are similar to those of the CSR system.

A. CSR Coverage of Women as Workers

The CSR program, which covers about 2.7 million Federal civilian employees, does not distinguish between male and female workers. The law speaks only of "employees" and therefore makes no overt distinctions based on sex. Thus, male and female workers with the same length of Federal service and the same earnings history will receive exactly the same amount in benefits and will be treated identically in all other respects.

In spite of the equality of treatment between individual workers, differences between male and female worker's benefits occur because of their differential employment patterns. The major difference between male workers as a group and female workers as a group is that women tend to have lower earnings and shorter attachment to the Federal workforce than men. Given the differences, in the earnings and labor force attachment patterns of male workers and female workers, some of the following issues arise for women.

* Vesting Requirement: The vesting requirement in the CSR system is 5 years. Even though the vesting period for civil servants is lower than it is for those covered by private pensions, women as a group are more likely never to acquire a vested right to a CSR annuity since a disproportionate number of female workers leave government service before serving 5 years.

* Benefit Formula: The CSR benefit computation formula favors long term employment with later years of tenure weighing more heavily than earlier years in calculating benefit amount. This "backloading" makes a significant difference in benefit amount. This "weighing" in the CSR benefit formula tends to be disadvantageous to women as a group since they generally work for fewer years than men and do not therefore have their benefit computed under the higher "backloaded" rates as often as men do. As of 1973, for example, the average length of Federal service for women was 11.1 years as compared to 16.7 years for men. In addition, because the CSR benefit computation formula is based on a percentage of the worker's salary, Federal women as a group receive smaller retirement benefits because their salaries are generally lower than those paid to Federal men. For example, in 1976 women represented 72.1 percent of Federal white collar employees who worked in jobs classified at GS-1 ($5,800) through GS-6 ($13,500). In 1975, the average grade for women in the Federal white collar work force was 5.73 compared to 9.78 for men.

B. CSR Coverage of Women as Wives and Dependents

* Election of Survivor Benefits: The CSR Act provides that a married Federal annuitant who desires survivor protection for his spouse must pay for such protection by accepting a smaller annuity than would otherwise be payable to him. The worker has complete authority over whether or not a survivor benefit will be payable to his spouse. She is neither involved legally in the worker's decision nor informed of that decision by the Office of Personnel Management.

* Termination of Survivor Benefits on Account of Remarriage: Survivor benefits under the CSR Act are terminated if the widow remarries prior to age 60. Some argue that this provision has the effect of limiting an individual's choice as to whether she should remarry by attaching a possible financial penalty to such remarriage. Widows who choose to remarry before age 60 may find that their loss of benefits will result in financial hardship for themselves and their new spouses.

The CSR Act does not provide benefits for dependent divorced spouses or for surviving divorced spouses. Thus, regardless of the number of years which an individual has been married to a Federal employee, divorce will leave the individual without any CSR retirement income while the worker is still living and will cut off her right to survivor benefits if the worker dies before her. The lack of benefits for dependent spouses and surviving divorced spouses has a particularly negative impact on women who have been homemakers all or most of their life.

* Benefits for Dependents and Survivors: Federal employees who are covered under a Federal retirement plan are specifically excluded from coverage under the Social Security program. However, the Social Security system, unlike the CSR system is a social insurance program that is family-oriented. As a result, many types of benefits that are available under Social Security are not available under the CSR program. For example, the Social Security program pays benefits to the dependents of disabled or retired workers, such as their spouses, children, dependent parents, and dependent grandchildren, and to certain former spouses from whom they are divorced. The CSR program, on the other hand, does not provide any of these benefits. The lack of Social Security protection for Federal workers may result in greater hardship for the dependents of such workers than for the workers themselves. This is because the CSR program provides generous benefits for the individual worker, but no benefits for their dependents or for their former spouses. Because a far greater number of dependent and former spouses of Federal employees are women, this lack of protection impacts on them to a more significant degree than it does on men.

Section III

POLICY OPTIONS FOR OLDER WOMEN

Policymakers have already made a major commitment to the elderly through Federal policy. In programmatic terms 134 Federal programs benefiting the aging under the jurisdiction of 49 congressional committees and subcommittees have been identified. In addition, there are other programs initiated by state and local governments, as well as by private institutions. In budgetary terms, it has been estimated that total expenditures for the aging and their survivors now constitute 25 percent of the Federal budget and future increases are anticipated.[27]

The demographic data in this paper demonstrate a significant change in tha aging population: the number of older people is increasing rapidly, the greatest increase is among the oldest of the old, and the majority of the elderly are women.

The data also reveal significant differences between older women and men in marital status, living arrangements and economic status. While the Federal government has achieved considerable success in providing economic security for the aging, a disproportionate number of older women remain close to the poverty level. Many of these women are widows who live alone.

By every economic measure, women are more deprived in their later years than are men. This is a most significant fact when the numerical importance of unmarried women 65 and over and the predominance of women at the oldest ages are taken into account. The limited economic security experienced in old age by such women is the result of their longer life expectancy, the lifetime impact of limited employment opportunity, society's assumption of women's economic dependency, and the bias against women both as workers and as dependents that is imbedded in public and private pension systems.

Furthermore, while all those living on fixed incomes have been affected adversely by the high inflation rate of the 1970's, the poorest and the oldest, both groups in which women predominate, have been most severly affected. The costs of necessities, such as food, housing and health care have exceeded the general rate of cost increases and consequently, consume growing portions of the incomes of those elderly with the least resources -- elderly women.[28]

In response to demographic changes and rising economic pressures, older women are rapidly emerging as a significant group politically. A higher proportion of older people tend to register and vote than do younger people but because of the numerical dominance of women among the elderly, there are more women voters in this group. In the 1978 congressional election, almost 7 million women 65 and over voted, casting one million more votes than did men of the same age. Furthermore, older people are becoming more highly organized than formerly. Established organizations, such as the National Association of Retired Persons and the National Council of Senior Citizens, report expanding memberships which are predominantly female. They also note an increasing intensity of activism related to retirement income issues. As this paper goes to press, two new national advocacy organizations specifically for older women, the Older Women's League and the National Action Forum for Older Women, are in the process of formation to press for social and legislative reforms of benefit to older women. As a result, older women can be no longer easily dismissed or neglected because they comprise a large, well-organized constituency and are becoming a potent political force.

To address the needs of older women, changes in public policy can be made in programs that serve those who are presently among the elderly. Changes must also be made in policies affecting women at earlier life stages in order to adequately meet the needs of future cohorts of the aged. The policy options that follow present only a few and very general suggestions for study and action. More specific policy options will be developed at a later date.

1. TO DEVELOP COMPREHENSIVE DATA

   * Older women, as a group, have been typically subsumed under the general category of "women" without regard to age or under the category of "elderly" without regard to sex. The invisibility of older women in current statistical descriptions results from the use of broad age categories (e.g. 25 to 64 years, 65 and over, and 35 and over) and the unavailability of comparable gender-based data across age, marital status, living arrangements, income, race and ethnicity classifications. These factors, interacting with each other, have important implications for the economic status of the aging and consequently for sound public policy. While the data available on older people is improving in both quantity and quality, development of even more extensive data that takes factors into account reflecting the heterogeneity of the aging population is strongly recommended.

2. TO PROMOTE PUBLIC AWARENESS

   * Effective public policy must be based on public awareness of the facts and the development of consensus. Broad-based discussion is necessary to dispel myths and to examine carefully the actual economic status of the aging population. The public particularly needs to understand the functioning of present income maintenance systems and the impact of proposed changes on those of different sexes, ages, races, ethnic groups, and marital status. For maximum effectiveness, such discussion should cut across traditional socioeconomic barriers to include policymakers, the aging, women, and younger people. Women's organizations are one of the most appropriate agents to spearhead such public dialogue in order to build an informed constituency for action. Continuing involvement in education and action programs, particularly of the aging and women, is vital since their interests converge and joint advocacy will benefit both groups.

3. TO INSURE INCOME ADEQUACY

   Since widowhood and divorce cause loss of income more often to older women than to older men, support systems should be designed to aid this population. There are at present several proposals for reform of public and private pension coverage that would adapt these programs to the needs of contemporary women. For example, the Department of Health and Human Services (HHS) experts on Social Security are now advocating that earnings of a married couple be considered equally vested in both members of the marriage, with both husband and wife entitled to one-half of the earnings record vested in either member of the marriage. In addition, consideration should be given to the fact that while changes in current private pension laws might involve increased costs and reduced benefits for some, such changes would nevertheless have a relatively greater impact on women's well-being as retired workers. While it is beyond the scope of this paper to examine the technical details of the various proposals now under consideration, some aspects are of particular interest.

A. Public Pensions

* Civil Service Retirement law has been changed by the Congress so that divorced spouses can claim a pro rata share of husbands' retirement benefits. The divorced spouse, however, must prove in court that she should receive some share of her husband's retirement, and state law should allow this form of entitlement in its divorce settlements. Many states do not currently allow divorced wives to claim retirement benefits.

* The Social Security Advisory Council has recommended that the Social Security law be changed so that a spouse's earnings record would be split between the two spouses at the time of divorce in any marriage that has lasted ten years, thus protecting the implicit claim of the wife who had contributed to family well-being while her husband earned the larger share of its income.

* The Council has also recommended that the Social Security law be changed so that a widow would continue to receive 100 percent of total combined benefits (her husband's plus her dependent's benefit) after her husband's death, instead of the two-thirds of the total combined benefits (survivor's entitlement) that widows currently receive.

* Since wages are an important source of income for women over 65, especially unmarried women and Black women, Social Security disincentives to employment may harm these women by limiting the income they can earn without suffering a reduction in Social Security benefits. It is unclear at this point what the financial trade-off would be between continuing Social Security payments to employed older women and paying for Federal programs to aid older women who were discouraged from earning wages to supplement Social Security payments. Research needs to be done to ascertain the relative cost of these expenditures.

B. Private Pensions

* The Presidential Commission on Pension Policy is considering a policy that would set a mandatory level of private pension coverage and allow employer portability of the pension after one year's coverage.

- Pension systems should allow not only portability, but also earlier vesting of pension rights and cumulative vesting of pension rights. In light of the current pattern of women's labor force participation, these are especially important changes, although they would also benefit male workers. Women still have higher labor force participation rates in the 20-24 year old cohort than do men, and pension vesting should begin before age 25, the level at which it is currently mandated. Women also still have more discontinuous labor force participation than do men, which means that a system allowing cumulative vesting over the course of the work life would be especially beneficial and would more accurately reflect women's total labor force participation during a lifetime.

- It is often assumed that, because more women are now active participants in the labor force, they will receive much greater benefits in the future from work-related pension programs. While this may be the case, all evidence indicates that the patterns of women's employment still differ from those of men in terms of full-time, long term commitment to the labor force that the majority of women remain clustered in the predominantly female occupations that have traditionally provided low status and low pay, and that a significant gap between the wages of men and women remains. Current efforts to develop pay equity for men and women merit attention and encouragement in order to raise the level of benefits secured by working women in the future.

4. TO ENCOURAGE EMPLOYMENT

Although popular thinking holds that most older people are eager for retirement, it is obvious that many older women, particularly those who are displaced homemakers, require employment for economic survival. For women who have remained out of the labor force for a number of years because of family responsibilities, employment is often difficult to secure because of their age, lack of recent work experience, and lack of credit awarded for skills developed as a homemaker or community volunteer. Suggestions to facilitate the employment of older women follow.

- Through public education programs, the heterogeneity and employability of the older population needs to be emphasized and negative stereotypes eliminated. The vitality, experience and motivation that an older person can bring to the employment situation is often as great or greater than that of a younger worker.

- Efforts should be made to dispel the image of the older person solely as a resource for volunteer assistance. While voluntary involvement in community affairs can be productive for both the older individual and the community, for economic reasons older women and men may require paid employment fully as much as a younger person and should be perceived as an asset to the labor force.

- Some existing programs have dual purposes and dual benefits. Such programs as Senior Companions, Foster Grandparents, Green Thumb, and Home Health Aides meet vital community needs and in addition, provide needed employment opportunities for older persons. These programs merit expansion.

- More counseling and retraining programs for older people are needed so that they can secure employment. As a target population most needing assistance, older women seeking employment would produce immediate benefits and improve their economic status in their later years. Such counseling and retraining should be realistic and closely related to available opportunities in the current labor market. Training should also include information on translating skills derived from work in the home or community into marketable skills. Specific measures suggested are an employment and training bill, adapted to the needs of older women, which would be similar to the G.I. Bill and provide entitlement for employment training. Also, tax credits might be utilized to assist those older women seeking re-entry to the labor market with the education expenses involved in their retraining.

- The Federally-supported system of educational scholarships and financial aid needs to be examined to ascertain whether or not it facilitates the participation of mature people in the educational system in preparation for employment. This includes examining the effects of current regulations on attendance by part-time students, on attendance by those with less familiarity with formal education whose test scores may be lower than those of conventional students, and on attendance by those, especially women, whose total family incomes are high even though the wife may not have access to much of the total income.

- Flexibility in the work place with flextime, job sharing and other part-time options is desirable for all workers and is of special importance in facilitating the employment of older workers.

- Training programs like CETA provide a suitable mechanism for employment training and should be expanded to include more older workers. While current training programs for women emphasize employment in nontraditional career fields that offer them the potential for upward mobility, the fact that such an emphasis may not be desirable nor advantageous for older women should be recognized. Women, who are older and anxious to obtain employment to meet their immediate financial needs, may indeed prefer employment in a more traditional field, such as health care, which is related to their previous experience and most appropriate to their needs.

- The most popular job creation proposal is to change Medicare provisions to allow payments for "home care" of the elderly in addition to current payments for institutional care. The Department of HHS is currently running a demonstration project to ascertain whether or not home care payments would, in fact, lead to Medicare recipients being removed from institutional care to be cared for at home. Should the study indicate that this tradeoff is made, then presumably the funds to pay for home care and home care workers would come from reduced payments for institutional care. In this way, new employment opportunities as home care workers would become available for older women.

- Although age discrimination is a major impediment to women's employment, they rarely use existing age discrimination legislation. Women's organizations could play a central role in publicizing this legislation, sensitizing older women to the dynamics of age discrimination, and supporting their claims for redress.

5. TO IMPROVE SERVICE PROGRAM DESIGN AND DELIVERY

- Service programs which assist older persons may be an important income supplement. Several basic principles should be kept in mind in designing such programs.

  A. Public policy should recognize the physical, social and economic differential existing among people categorized as aging and design such services appropriately.

  B. Every effort should be made to encourage inter-generational services and programs rather than continuing the isolation and age segregation experienced by many of the elderly.

  C. Public policy should encourage actions by local agencies and organizations to provide services in environments which are familiar and comfortable for older people.

  D. All programs and services should enhance the independence of the individual, rather than increasing dependence.

- At present, many elderly are not benefiting from public programs designed for them. Efforts are being made to coordinate the many Federal programs serving the aging but they remain fragmented and access is complicated. More publicity and effective outreach efforts are needed in order to inform and involve the elderly, who may be among the most isolated in the population, of services and programs that can be of assistance to them.

- Transportation is critical to dispel the isolation of older persons and to provide access to service programs. Many do not own their own cars and must rely on public transportation. While the lack of transportation impacts heavily on both the urban and rural elderly, it is the rural elderly who are most severely affected. These people, who may be among the most isolated and needy, consequently benefit least from public programs, particularly health care, nutrition, legal and other service programs.

- Because the elderly are a diverse group and many may be reluctant to accept government assistance or unable to cope with bureaucracy, it is important to present information and programs in a clear manner designed to increase their acceptability. More programs and delivery systems should be incorporated into community centers and churches which are known to and trusted by the aging constituency. Racial and ethnic differences must also be accommodated.

- The demographic fact of the predominance of women among the aging population suggests that both government agencies and private organizations should be encouraged to examine the impact of all programs on older women to ascertain if the particular needs of this group are being met. It is also of great importance that a large number of those involved in program planning and service delivery be representative of older women.

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Currently, the negative stereotypes and implications of aging discourage discussion and realistic assessment. In fiscal and social terms, the aging are frequently portrayed as "a burden." The complex issues involved in equitable and adequate public programs for the aging almost defy objective analysis and will continue to do so until the antipathy to aging is addressed.

Dr. Robert Butler, director of the National Institute on Aging, has observed that it is vital to deal effectively with the problems of aging, for these relate directly to "our futures and our future selves." Despite each person's reluctance to accept the effects of aging, the numbers are rising and the public costs are escalating. Also, the changing ratios of the elderly in relation to active workers in the labor force raise serious questions about who shall bear these costs.

Whatever level of costs is chosen by society, this study focuses attention on the needs and inequities faced by a specific and numerically dominant segment of the aging population, namely women. The majority status of women among the aging population implies that aging is a women's issue. However, in terms of the equitable distribution of resources among the aging, facing old age and responding to its needs is a major social issue.

TABLE 1

Population 50 Years and Over, by Race, Spanish Origin, Sex, and Age: July 1, 1978, 1974, and 1970

(In thousands. For meaning of symbols, see text)

Sex and age	All races			White			Black			Spanish origin[1]		
	1978	1974	1970	1978	1974	1970	1978	1974	1970	1978[2]	1974	1970[3]
Both sexes.....	56,547	53,299	49,915	50,961	48,263	45,333	4,909	4,525	4,167	1,551	(NA)	1,165
50 to 59 years.......	23,061	22,265	21,161	20,617	20,061	19,107	2,126	1,970	1,867	807	(NA)	559
60 to 64 years.......	9,432	9,201	8,666	8,544	8,300	7,852	793	822	744	226	(NA)	202
65 to 69 years.......	8,575	7,840	7,023	7,649	7,054	6,338	851	725	626	217	(NA)	164
70 and 71 years......	2,843	2,503	2,420	2,587	2,297	2,199	231	184	201	53	(NA)	105
72 to 74 years.......	3,516	3,199	3,065	3,227	2,929	2,802	250	236	221	91	(NA)	
75 years and over....	9,120	8,291	7,600	8,337	7,622	7,035	658	588	508	157	(NA)	135
Male.............	25,258	23,938	22,612	22,757	21,659	20,514	2,173	2,019	1,877	721	(NA)	552
50 to 59 years.......	11,063	10,671	10,158	9,928	9,644	9,196	988	912	865	387	(NA)	268
60 to 64 years.......	4,418	4,297	4,049	4,014	3,881	3,669	358	373	339	101	(NA)	96
65 to 69 years.......	3,803	3,474	3,137	3,398	3,126	2,828	365	312	277	100	(NA)	79
70 and 71 years......	1,215	1,080	1,037	1,103	986	938	98	82	87	27	(NA)	49
72 to 74 years.......	1,469	1,330	1,284	1,337	1,208	1,176	111	106	99	35	(NA)	
75 years and over....	3,290	3,086	2,967	2,977	2,814	2,707	253	234	210	71	(NA)	60
Female...........	31,287	29,358	27,302	28,205	26,604	24,817	2,735	2,506	2,287	829	(NA)	613
50 to 59 years.......	11,998	11,594	11,006	10,689	10,417	9,911	1,138	1,058	1,001	420	(NA)	291
60 to 64 years.......	5,014	4,903	4,618	4,531	4,419	4,183	436	449	405	124	(NA)	106
65 to 69 years.......	4,771	4,366	3,885	4,251	3,928	3,510	486	412	349	118	(NA)	85
70 and 71 years......	1,628	1,426	1,383	1,484	1,311	1,261	132	102	112	26	(NA)	56
72 to 74 years.......	2,047	1,867	1,760	1,890	1,721	1,627	138	130	122	55	(NA)	
75 years and over....	5,829	5,204	4,652	5,360	4,808	4,325	405	355	298	86	(NA)	75

[1] Persons of Spanish origin may be of any race.
[2] March 1978. Current Population Survey.
[3] April 1, 1970.

Source: U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-25, No. 721; 1970 Census of Population, Vol. II, 1C, "Persons of Spanish Origin;" and unpublished population estimates for 1978.

TABLE 2

Average Number of Years of Life Remaining at Age 65 and at Birth, by Race and Sex: 1976

Sex	All races		White		Black and other races	
	At age 65	At birth	At age 65	At birth	At age 65	At birth
Both sexes..................	16.0	72.8	16.1	73.5	15.8	68.3
Male............................	13.7	69.0	13.7	69.7	13.8	64.1
Female..........................	18.0	76.7	18.1	77.3	17.6	72.6

Source: U.S. Department of Health, Education, and Welfare, Public Health Service, Monthly Vital Statistics Report, Vol. 26, No. 12, Supplement (2), March 1978

TABLE 3

Nativity and Parentage of the Total Population and the Population 65 Years and Over, by Sex: 1970

Nativity and parentage	Total	Male	Female
TOTAL POPULATION			
All ages	203,210	98,882	104,328
Median age	28.1	26.8	29.3
Persons 65 years and over	20,101	8,436	11,665
Percent of all ages	9.9	8.5	11.2
NATIVE OF NATIVE PARENTAGE			
All ages	169,635	82,989	86,666
Median age	24.4	23.5	25.3
Persons 65 years and over	13,126	5,440	7,686
Percent of all ages	7.7	6.6	8.9
NATIVE OF FOREIGN OR MIXED PARENTAGE			
All ages	23,956	11,489	12,467
Median age	47.3	46.2	48.2
Persons 65 years and over	3,900	1,606	2,293
Percent of all ages	16.3	14.0	18.4
FOREIGN BORN			
All ages	9,619	4,404	5,216
Median age	52.0	52.2	51.9
Persons 65 years and over	3,075	1,389	1,686
Percent of all ages	32.0	31.5	32.3

Source: U.S. Department of Commerce, Bureau of the Census, 1970 Census of Population, Vol. II, 1A, "National Origin and Language".

TABLE 4

Marital Status of Persons 55 Years and Over, by Race, Spanish Origin, Sex, and Age: March 1978

(In thousands. Noninstitutional population)

Race, Spanish origin, and age	Male						Female					
	Total	Single	Married, wife present	Married, wife absent	Widowed	Divorced	Total	Single	Married, husband present	Married, husband absent	Widowed	Divorced
ALL RACES												
55 years and over	18,930	1,026	14,073	120	1,617	893	26,038	1,367	12,186	505	8,889	1,166
55 to 64 years	9,760	529	8,113	380	317	536	10,760	519	7,219	360	1,972	680
65 to 74 years	6,089	387	4,751	107	589	217	8,189	578	3,788	179	3,376	317
75 years and over	3,080	180	2,180	66	711	57	5,109	291	1,105	66	3,561	107
WHITE												
55 years and over	17,120	903	13,860	365	1,736	968	21,736	1,266	11,266	596	7,875	936
55 to 64 years	8,861	476	7,460	191	271	655	9,669	662	6,706	316	1,807	389
65 to 74 years	5,441	290	4,397	106	671	176	7,395	380	3,517	122	2,985	270
75 years and over	2,808	131	2,070	60	662	39	4,672	286	1,061	50	3,101	97
BLACK												
55 years and over	1,507	106	972	175	223	132	2,000	97	736	170	905	156
55 to 64 years	770	50	531	85	38	74	950	56	633	119	253	90
65 to 74 years	575	39	323	72	109	33	731	37	363	52	356	65
75 years and over	266	17	110	18	76	35	309	6	58	0	298	10
SPANISH ORIGIN[1]												
55 years and over	505	21	387	33	43	27	592	32	207	63	193	63
55 to 64 years	273	8	213	27	17	17	306	11	186	30	53	27
65 to 74 years	161	7	125	0	13	9	200	17	86	32	76	13
75 years and over	71	5	46	3	10	3	86	4	12	2	64	3

[1] Persons of Spanish origin may be of any race.

Source: U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-20, No. 338.

TABLE 5

Family Status of Persons 55 Years and Over, by Race, Spanish Origin, Age, and Sex: March 1978

(Noninstitutional population. For meaning of symbols, see text)

Race, Spanish origin, and family status	55 years and over			55 to 64 years			65 to 74 years			75 years and over		
	Both sexes	Male	Female	Both sexes	Male	Female	Both sexes	Male	Female	Both sexes	Male	Female
ALL RACES												
Total.........thousands..	42,977	18,919	24,058	20,509	9,749	10,760	14,269	6,080	8,189	8,199	3,090	5,109
Percent................	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
In families....................	75.6	85.7	67.6	84.5	89.1	80.3	71.7	84.9	61.9	60.0	76.6	50.0
Head of family.................	40.8	81.3	8.8	45.6	85.5	8.9	38.9	79.9	8.5	32.4	70.8	9.2
Wife of head...................	27.9	...	49.9	35.0	...	66.8	26.2	...	45.7	13.2	...	21.2
Other family member..........	6.9	4.4	8.8	4.1	3.6	4.6	6.6	5.0	7.7	14.6	5.8	19.6
Primary individual.............	23.0	12.6	31.3	14.1	9.1	18.6	26.8	13.3	36.9	38.9	22.1	49.1
Living alone...................	22.2	11.9	30.3	13.6	8.4	18.0	26.0	12.8	35.8	37.7	21.3	47.6
Secondary individual...........	1.4	1.7	1.1	1.5	1.8	1.2	1.5	1.7	1.3	1.1	1.3	0.9
In group quarters............	0.3	0.2	0.4	0.3	0.2	0.4	0.4	0.2	0.5	0.2	0.3	0.2
WHITE												
Total.........thousands..	38,846	17,110	21,736	18,530	8,861	9,669	12,836	5,441	7,395	7,480	2,808	4,672
Percent................	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
In families....................	76.1	87.0	67.5	85.2	90.1	80.7	72.2	86.5	61.6	60.0	77.8	49.3
Head of family.................	40.8	83.0	7.7	45.4	86.6	7.6	39.2	82.6	7.2	32.6	72.6	8.5
Wife of head...................	28.8	...	51.4	36.0	...	66.9	27.1	...	47.1	13.7	...	21.9
Other family member..........	6.6	4.0	8.4	3.9	3.6	6.2	5.9	4.0	7.2	13.7	5.2	18.9
Primary individual.............	22.8	11.8	31.4	13.4	8.2	18.2	26.8	12.6	37.2	39.2	21.7	49.8
Living alone...................	22.1	11.3	30.6	12.8	7.6	17.6	26.1	12.2	36.3	38.3	21.2	48.5
Secondary individual...........	1.2	1.2	1.1	1.4	1.7	1.1	1.1	0.9	1.2	0.8	0.5	0.9
In group quarters............	0.3	0.1	0.4	0.3	0.2	0.5	0.3	0.1	0.5	0.2	0.2	0.2
BLACK												
Total.........thousands..	3,666	1,597	2,069	1,736	778	958	1,306	575	731	626	246	380
Percent................	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
In families....................	69.7	72.7	67.4	75.5	76.2	74.8	66.8	71.0	63.5	59.9	65.6	56.3
Head of family.................	39.9	66.6	20.7	45.1	73.0	22.4	36.4	57.6	19.8	32.5	54.5	18.2
Wife of head...................	19.7	...	35.0	24.7	...	44.8	18.1	...	32.4	9.3	...	15.3
Other family member..........	10.1	6.1	11.7	5.6	3.2	7.6	12.2	13.4	11.2	18.1	11.1	22.9
Primary individual.............	26.5	20.7	31.0	22.0	20.2	23.5	28.1	19.8	34.5	35.9	24.6	43.2
Living alone...................	24.4	18.8	28.7	20.5	17.9	22.7	25.7	18.3	31.5	33.7	23.4	38.7
Secondary individual...........	3.7	6.6	1.6	2.5	3.6	1.8	5.1	9.2	2.1	4.2	9.8	0.5
In group quarters............	0.5	1.0	(Z)	0.1	0.3	-	0.8	1.6	0.1	0.8	2.0	-
SPANISH ORIGIN[1]												
Total.........thousands..	1,098	505	592	580	273	306	361	161	200	157	71	86
Percent................	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
In families....................	82.0	87.1	77.7	87.2	91.9	83.3	78.1	85.1	72.5	71.3	(B)	69.8
Head of family.................	41.3	76.6	11.7	44.7	81.7	11.8	40.2	75.2	12.5	31.8	(B)	9.3
Wife of head...................	24.0	...	44.6	30.7	...	58.2	21.1	...	38.0	6.4	...	11.6
Other family member..........	16.6	10.5	21.8	11.9	10.3	13.4	16.6	9.9	22.5	33.8	(B)	48.9
Primary individual.............	16.0	11.9	19.9	10.9	6.6	14.7	20.5	14.9	25.0	24.8	(B)	26.7
Living alone...................	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)
Secondary individual...........	1.9	1.2	2.5	1.9	1.5	2.3	1.4	-	2.5	3.2	(B)	3.5
In group quarters............	0.6	-	1.2	0.2	-	0.3	1.1	-	2.0	1.3	(B)	2.3

[1] Persons of Spanish origin may be of any race.

Source: U. S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-20, No. 338.

TABLE 6

Households With Head 55 Years and Over, by Race, Spanish Origin, Tenure, Type, and Age of Head: March 1978

(In thousands. Noninstitutional population)

Race, Spanish origin, and age of head	All households	Owner households				Renter households			
		Total	Primary families	Primary individuals		Total	Primary families	Primary individuals	
				Male	Female			Male	Female
ALL RACES									
Head, 55 years and over	27,408	20,441	14,628	1,276	4,538	6,967	2,875	1,104	2,989
55 to 64 years	12,183	9,457	7,868	411	1,178	2,726	1,431	477	818
65 to 74 years	9,383	6,942	4,650	427	1,865	2,441	904	383	1,155
75 years and over	5,842	4,042	2,110	438	1,495	1,800	540	244	1,016
WHITE									
Head, 55 years and over	24,710	18,833	13,490	1,141	4,202	5,878	2,369	876	2,633
55 to 64 years	10,884	8,689	7,256	359	1,074	2,196	1,146	364	685
65 to 74 years	8,467	6,399	4,285	383	1,731	2,063	742	302	1,019
75 years and over	5,364	3,745	1,949	399	1,397	1,619	481	210	929
BLACK									
Head, 55 years and over	2,431	1,427	1,010	118	300	1,004	449	213	342
55 to 64 years	1,163	682	535	51	96	481	246	106	129
65 to 74 years	842	489	329	40	121	353	147	74	132
75 years and over	426	256	146	27	83	170	56	33	81
SPANISH ORIGIN[1]									
Head, 55 years and over	630	365	300	18	46	266	153	41	71
55 to 64 years	321	188	172	3	14	133	86	15	31
65 to 74 years	220	123	94	8	20	97	51	17	29
75 years and over	89	54	34	7	12	36	16	9	11

[1] Persons of Spanish origin may be of any race.

Source: U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-20, No. 338.

TABLE 7

Total Money Income in 1977 of Persons 55 Years and Over, by Race, Sex, and Age

(Persons as of March 1978. For meaning of symbols, see text)

Sex and income	All races			White			Black		
	55 years and over	55 to 64 years	65 years and over	55 years and over	55 to 64 years	65 years and over	55 years and over	55 to 64 years	65 years and over
MALE									
Number of persons............thousands..	18,939	9,769	9,170	17,110	8,861	8,249	1,597	778	819
Number of persons with income, thousands..	18,834	9,689	9,145	17,030	8,798	8,232	1,582	767	815
Percent..........................	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
$1 to $999 or loss.......................	1.4	1.9	1.0	1.4	1.9	0.8	2.1	1.6	2.7
$1,000 to $1,499..........................	1.4	0.9	1.9	1.1	0.8	1.3	4.6	2.3	6.7
$1,500 to $1,999..........................	1.9	1.2	2.7	1.6	1.0	2.2	5.2	3.0	7.2
$2,000 to $2,499..........................	4.4	2.5	6.5	3.7	2.0	5.5	11.6	7.8	15.1
$2,500 to $2,999..........................	3.6	1.7	5.6	3.3	1.5	5.2	6.1	3.7	8.5
$3,000 to $3,499..........................	5.0	2.5	7.7	4.7	2.2	7.3	7.9	4.8	10.8
$3,500 to $3,999..........................	5.0	2.6	7.6	4.7	2.2	7.4	7.7	6.0	9.3
$4,000 to $4,999..........................	7.7	4.0	11.7	7.6	3.8	11.7	8.8	6.1	11.3
$5,000 to $5,999..........................	7.3	4.3	10.4	7.1	3.9	10.5	9.5	8.8	10.1
$6,000 to $6,999..........................	6.6	4.7	8.7	6.6	4.4	9.0	7.3	8.7	6.0
$7,000 to $7,999..........................	5.7	5.0	6.5	5.8	4.8	6.8	4.8	6.5	3.2
$8,000 to $8,999..........................	4.5	4.3	4.7	4.7	4.4	5.0	3.0	3.8	2.3
$9,000 to $9,999..........................	4.1	8.4	3.7	4.1	4.3	3.9	4.0	6.4	1.7
$10,000 to $11,999........................	7.3	8.8	5.7	7.4	8.7	6.1	5.2	9.1	1.6
$12,000 to $14,999........................	8.8	12.7	4.7	9.1	12.9	5.1	5.2	9.5	1.1
$15,000 to $19,999........................	10.9	16.5	4.9	11.5	17.3	5.3	4.4	7.4	1.6
$20,000 to $24,999........................	5.8	9.2	2.2	6.2	9.8	2.4	1.4	2.2	0.6
$25,000 and over..........................	8.6	12.9	4.0	9.3	13.9	4.4	1.3	2.3	0.4
Median income..................dollars..	7,982	12,243	5,526	8,518	1,278	5,805	4,561	6,674	3,483
Mean income....................dollars..	11,564	14,895	8,035	12,089	15,499	8,444	6,166	8,134	4,313
FEMALE									
Number of persons............thousands..	24,038	10,740	13,298	21,736	9,669	12,067	2,069	958	1,111
Number of persons with income, thousands..	20,197	7,875	12,322	18,202	7,024	11,178	1,816	772	1,044
Percent..........................	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
$1 to $999 or loss.......................	6.1	10.3	3.4	5.8	10.1	3.2	8.4	12.6	5.3
$1,000 to $1,499..........................	7.6	6.1	8.6	7.4	5.8	8.4	9.9	8.0	11.3
$1,500 to $1,999..........................	10.2	7.3	12.1	10.2	7.1	12.1	11.0	8.9	12.5
$2,000 to $2,499..........................	11.2	7.4	13.7	10.2	6.6	12.4	22.2	15.0	27.5
$2,500 to $2,999..........................	8.4	5.3	10.4	8.2	5.1	10.2	10.7	7.3	13.3
$3,000 to $3,499..........................	8.3	5.4	10.2	8.2	5.1	10.2	9.5	8.3	10.3
$3,500 to $3,999..........................	6.6	3.8	8.4	6.7	3.8	8.4	5.7	3.5	7.3
$4,000 to $4,999..........................	8.9	8.3	9.2	9.1	8.3	9.6	6.6	7.4	5.9
$5,000 to $5,999..........................	6.7	7.5	6.3	6.9	7.3	6.6	5.5	9.1	2.8
$6,000 to $6,999..........................	5.0	6.2	4.2	5.2	8.4	4.5	2.2	4.3	0.7
$7,000 to $7,999..........................	4.1	5.4	3.2	4.3	5.7	3.3	2.1	2.9	1.6
$8,000 to $8,999..........................	3.3	5.0	2.2	3.5	5.2	2.4	1.4	2.6	0.5
$9,000 to $9,999..........................	2.3	3.5	1.6	2.5	3.7	1.7	0.8	1.4	0.3
$10,000 to $11,999........................	3.8	6.6	2.0	4.0	6.9	2.1	1.5	3.2	0.3
$12,000 to $14,999........................	3.5	5.5	2.2	3.7	5.9	2.4	1.4	2.8	0.4
$15,000 to $19,999........................	2.4	4.1	1.3	2.6	4.4	1.5	1.0	2.2	0.1
$20,000 to $24,999........................	0.8	1.2	0.5	0.8	1.3	0.5	0.3	0.4	0.2
$25,000 and over..........................	0.7	1.1	0.5	0.8	1.2	0.6	-	-	-
Median income..................dollars..	3,385	4,533	3,087	3,503	4,770	3,186	2,469	2,873	2,385
Mean income....................dollars..	4,906	5,957	4,234	5,070	6,175	4,375	3,321	4,083	2,757

Source: U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-60, No. 118.

TABLE 8

Total Money Income in 1977 of Persons 62 Years and Over, by Race, Spanish Origin, Marital and Family Status, and Age

(In thousands. Couples and persons 62 years old and over as of March 1978. For meaning of symbols, see text)

Race, Spanish origin, marital status, family status, and age	Total	With income												Median income (dollars)	Mean income (dollars)
		Total	$1 to $999 or loss	$1,000 to $1,999	$2,000 to $2,499	$2,500 to $2,999	$3,000 to $3,999	$4,000 to $4,999	$5,000 to $5,999	$6,000 to $7,999	$8,000 to $9,999	$10,000 to $14,999	$15,000 and over		
ALL RACES															
Married Couples[3]															
Total, 62 years and over[2]	9,500	9,485	49	56	102	138	569	619	823	1,565	1,171	1,881	2,532	9,340	12,828
62 to 64 years	2,450	2,443	20	23	26	28	75	79	127	242	230	542	1,052	12,965	16,428
65 to 71 years	3,819	3,817	16	15	48	53	193	203	276	665	522	821	1,005	9,618	12,796
72 years and over	3,232	3,225	12	18	28	57	280	337	422	657	420	518	475	7,242	10,141
Single, Widowed, or Divorced Persons															
Total, 62 years and over	12,361	12,206	152	1,052	1,619	1,359	2,572	1,349	1,030	1,165	674	743	560	3,767	5,329
In families	3,929	3,798	91	508	660	457	700	340	306	261	141	182	156	3,262	4,788
Male	847	827	28	79	115	82	130	71	77	75	42	47	82	3,851	6,412
62 to 64 years	175	167	7	17	16	14	15	11	20	21	10	12	25	5,263	7,801
65 to 71 years	330	319	10	31	38	18	62	34	33	27	18	20	28	4,000	6,770
72 years and over	342	341	11	31	60	50	53	27	24	27	14	14	28	3,344	5,496
Female	3,082	2,972	63	429	546	375	570	269	228	186	99	135	72	3,128	4,337
62 to 64 years	348	330	4	44	44	39	36	29	45	33	18	25	16	3,962	5,391
65 to 71 years	969	911	14	123	130	103	161	108	77	77	37	56	25	3,532	4,884
72 years and over	1,786	1,731	45	262	372	233	374	133	106	76	47	53	31	2,901	3,953
Not in families	8,432	8,406	61	544	[illegible]	902	1,872	1,008	726	904	483	561	386	3,928	5,576
Male	1,961	1,958	17	112	199	152	430	209	202	225	132	133	148	4,328	6,527
62 to 64 years	322	322	8	19	31	10	49	18	31	40	32	35	49	5,840	8,626
65 to 71 years	675	675	5	37	72	51	137	79	57	80	50	50	59	4,459	6,660
72 years and over	964	961	4	57	96	91	263	113	114	105	50	48	39	3,953	5,731
Female	6,471	6,448	44	432	760	750	1,442	799	524	679	351	429	238	3,859	5,284
62 to 64 years	791	784	17	59	63	94	71	79	93	105	61	93	51	5,112	6,500
65 to 71 years	2,268	2,241	12	130	238	266	458	304	169	290	142	160	92	4,118	5,522
72 years and over	3,431	3,422	15	243	459	410	913	417	262	284	148	175	96	3,661	4,849
WHITE															
Married Couples[3]															
Total, 62 years and over	8,783	8,776	40	41	76	116	451	547	738	1,440	1,108	1,787	2,434	9,635	13,183
62 to 64 years	2,248	2,245	16	16	23	21	80	65	112	219	208	494	1,012	13,497	16,969
65 to 71 years	3,520	3,520	15	10	30	43	160	176	241	603	496	790	957	9,933	13,161
72 years and over	3,015	3,011	10	16	23	51	231	305	385	618	405	503	465	7,448	10,420
Single, Widowed, or Divorced Persons															
Total, 62 years and over	10,812	10,699	126	827	1,217	1,150	2,275	1,226	943	1,088	599	716	532	3,892	5,602
In families	3,259	3,168	76	384	476	367	593	292	277	246	129	174	153	3,473	5,142
Male	684	670	24	41	80	63	107	57	68	67	34	46	82	4,332	7,161
62 to 64 years	163	155	7	16	15	12	14	11	17	19	8	12	25	5,200	7,756
65 to 71 years	247	242	6	14	27	15	48	21	29	22	11	20	28	4,542	7,759
72 years and over	274	273	11	12	39	37	45	25	22	26	14	14	28	3,850	6,263
Female	2,575	2,497	51	342	396	304	486	235	209	179	95	128	71	3,318	4,605
62 to 64 years	274	263	4	29	32	26	28	25	35	31	16	22	16	4,513	5,851
65 to 71 years	754	727	10	89	84	81	119	82	72	75	35	54	25	3,450	5,090
72 years and over	1,547	1,507	37	224	280	197	360	127	102	73	44	53	30	3,065	4,156
Not in families	7,553	7,532	51	443	741	783	1,682	935	667	843	469	541	378	4,072	5,795
Male	1,631	1,629	15	79	135	122	354	173	176	188	126	118	144	4,632	7,009
62 to 64 years	275	275	8	13	27	10	41	12	23	32	32	28	47	6,094	9,111
65 to 71 years	528	528	2	23	40	34	108	62	48	80	44	47	59	4,922	7,443
72 years and over	829	826	4	43	68	78	205	99	102	96	50	43	37	4,154	6,033
Female	5,922	5,903	36	364	605	661	1,327	762	493	654	343	423	234	3,968	5,481
62 to 64 years	713	709	12	50	49	86	60	73	79	100	59	91	49	5,315	6,771
65 to 71 years	2,033	2,027	12	108	182	205	415	281	162	279	135	158	90	4,326	5,727
72 years and over	3,175	3,167	11	206	375	370	852	408	252	275	148	174	95	3,728	4,997

TABLE 9

Total Money Income in 1977 of Persons 62 Years and Over, by Race, Spanish Origin, Marital and Family Status, and Age—Continued

(In thousands. Couples and persons 62 years old and over as of March 1978. For meaning of symbols, see text)

Race, Spanish origin, marital status, family status, and age	Total	With income												Median income (dollars)	Mean income (dollars)
		Total	$1 to $999 or loss	$1,000 to $1,999	$2,000 to $2,499	$2,500 to $2,999	$3,000 to $3,999	$4,000 to $4,999	$5,000 to $5,999	$6,000 to $7,999	$8,000 to $9,999	$10,000 to $14,999	$15,000 and over		
BLACK															
Married Couples[1]															
Total, 62 years and over	641	639	8	15	26	23	89	66	75	119	57	82	79	6,221	8,214
62 to 64 years	173	173	4	7	3	6	13	10	14	21	22	42	30	8,543	10,271
65 to 71 years	272	270	1	6	19	10	29	26	30	60	20	27	41	6,329	8,368
72 years and over	196	196	2	2	5	7	46	29	31	38	15	13	8	5,246	6,186
Single, Widowed, or Divorced Persons															
Total, 62 years and over	1,391	1,362	25	204	372	188	263	113	83	64	21	21	8	2,711	3,345
In families	585	560	15	105	168	77	100	42	25	13	9	6	-	2,477	2,997
Male	139	134	3	28	28	15	22	14	8	7	8	-	-	2,746	3,395
62 to 64 years	12	10	-	-	1	2	-	-	3	2	1	-	-	(B)	(B)
65 to 71 years	72	68	3	15	8	3	14	12	2	4	6	-	-	(B)	(B)
72 years and over	55	55	-	13	19	10	8	2	2	2	-	-	-	(B)	(B)
Female	446	426	11	77	140	62	77	28	18	6	2	6	-	2,445	2,872
62 to 64 years	70	62	-	12	12	13	6	3	11	1	-	3	-	(B)	(B)
65 to 71 years	178	169	4	34	41	20	42	19	4	3	2	3	-	2,675	3,057
72 years and over	199	195	8	31	88	29	29	5	3	2	-	-	-	2,335	2,457
Not in families	806	802	11	100	203	111	164	71	58	51	12	15	8	2,893	3,508
Male	298	298	2	34	55	25	64	36	28	35	5	11	3	3,516	4,137
62 to 64 years	47	47	-	6	3	-	8	6	8	8	-	7	2	(B)	(B)
65 to 71 years	135	135	2	14	26	16	26	17	9	17	5	2	-	3,354	3,867
72 years and over	117	117	-	14	26	9	30	13	12	9	-	2	1	3,318	3,770
Female	508	504	8	66	149	86	100	35	30	16	7	4	4	2,669	3,263
62 to 64 years	74	72	5	7	15	7	10	6	12	5	1	2	2	(B)	(B)
65 to 71 years	203	203	-	22	53	41	43	22	7	6	5	-	2	2,812	3,432
72 years and over	230	229	3	36	81	37	46	7	10	5	-	2	1	2,462	2,880
SPANISH ORIGIN[2]															
Married Couples[1]															
Total, 62 years and over	231	229	3	4	9	9	32	22	25	37	35	26	29	6,495	8,378
62 to 64 years	53	52	1	2	1	3	2	6	3	7	7	7	14	(B)	(B)
65 to 71 years	110	110	2	1	4	3	18	8	9	18	19	14	14	6,933	8,757
72 years and over	68	67	-	1	5	2	12	8	13	12	9	5	1	(B)	(B)
Single, Widowed, or Divorced Persons															
Total, 62 years and over	301	278	8	38	81	30	60	17	14	15	5	5	5	2,704	3,557
In families	158	137	5	25	46	9	26	8	7	8	3	-	-	2,419	3,031
Male	28	28	-	3	5	1	5	1	5	6	2	-	-	(B)	(B)
62 to 64 years	8	8	-	-	-	-	2	-	3	2	1	-	-	(B)	(B)
65 to 71 years	11	11	-	-	3	1	1	1	1	2	1	-	-	(B)	(B)
72 years and over	9	9	-	2	2	-	2	-	1	2	-	-	-	(B)	(B)
Female	130	109	5	22	41	8	21	6	3	2	1	-	-	2,334	2,649
62 to 64 years	20	14	-	5	2	-	1	2	2	2	-	-	-	(B)	(B)
65 to 71 years	42	37	2	3	18	4	7	2	-	-	1	-	-	(B)	(B)
72 years and over	68	58	3	13	21	4	13	2	1	1	-	-	-	(B)	(B)
Not in families	143	141	3	13	35	21	35	10	7	6	2	5	5	2,966	4,068
Male	49	48	2	2	15	4	12	4	2	2	1	2	1	(B)	(B)
62 to 64 years	5	5	-	1	-	-	2	-	-	1	-	1	-	(B)	(B)
65 to 71 years	15	15	-	1	3	3	5	2	-	-	-	1	1	(B)	(B)
72 years and over	26	27	2	1	12	2	5	2	2	1	1	-	-	(B)	(B)
Female	94	93	1	10	19	17	22	5	5	5	1	3	4	2,965	4,187
62 to 64 years	15	15	-	3	1	3	1	1	3	2	-	-	-	(B)	(B)
65 to 71 years	37	36	1	2	9	7	7	4	2	2	1	-	1	(B)	(B)
72 years and over	43	42	-	5	9	7	14	-	1	1	-	3	2	(B)	(B)

[1] Income of couples with at least one member 62 years old or over; if both members 62 and over, age category determined by age of head.
[2] Persons of Spanish origin may be of any race.

Source: U.S. Department of Commerce, Bureau of the Census. unpublished data from the 1978 Current Population Survey.

TABLE 10

Persons 65 Years and Over Below the Poverty Level in 1977, by Race, Spanish Origin, and Sex

(Numbers in thousands. Persons as of March 1978. For meaning of symbols, see text)

Race, Spanish origin and sex	Number below poverty level						Poverty rate					
		In families						In families				
	Total	Total	Head	Wife	Other family members	Unrelated individuals	Total	Total	Head	Wife	Other family members	Unrelated individuals
ALL RACES												
Both sexes.....	3,177	1,176	710	364	102	2,001	14.1	7.8	8.6	7.5	4.8	27.3
Male................	961	575	551	(X)	24	386	10.5	7.6	7.8	(X)	5.0	23.5
Female.............	2,216	601	159	364	77	1,615	16.7	7.9	13.7	7.5	4.7	28.4
WHITE												
Both sexes.....	2,426	809	472	281	56	1.617	11.9	5.9	6.3	6.2	3.1	24.6
Male................	686	414	403	(X)	11	273	8.3	6.0	6.2	(X)	3.0	20.1
Female.............	1.739	395	70	281	45	1,344	14.9	5.8	7.5	6.2	3.2	25.8
BLACK												
Both sexes.....	701	338	214	79	45	362	36.3	27.1	31.5	26.9	16.4	53.0
Male................	243	144	132	(X)	12	99	29.7	25.4	28.4	(X)	11.5	39.4
Female.............	457	194	82	79	33	263	41.2	28.6	38.3	26.8	19.6	60.8
SPANISH ORIGIN[1]												
Both sexes...	113	51	35	10	6	62	21.9	12.9	18.1	11.4	5.3	50.3
Male................	55	31	29	(X)	2	24	23.7	16.4	17.7	(X)	(B)	54.9
Female.............	58	21	7	10	4	38	20.4	10.2	19.9	11.4	4.4	47.8

[1] Persons of Spanish origin may be of any race.

Source: U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-60, No. 119.

TABLE 11

Labor Force Participation Rates for Older Age Groups, By Sex, Selected Years, 1950-78

Age Group and Year	Men	Women
50 to 54 years		
1950	90.5	30.8
1960	92.0	45.9
1970	91.5	52.4
1978 (August)	89.1	53.8
55 to 59 years		
1950	86.7	25.9
1960	87.7	39.7
1970	86.8	47.6
1978 (August)	83.1	47.7
60 to 64 years		
1950	79.4	20.6
1960	77.8	29.4
1970	73.2	36.4
1978 (August)	61.1	31.7
65 to 69 years		
1950	59.7	12.0
1960	44.0	16.5
1970	39.3	17.2
1978 (August)	30.0	14.2

Sources: Bureau of the Census, 1970 Census of Population, Employment Status and Work Experience, Table 2 for 1950, 1960, and 1970 data. August 1978 data from Employment and Earnings, September 1978, Table A-3.

TABLE 12

Median Income of Year-Round, Full-Time Civilian Workers With Income, by Age and Sex: 1977, 1975, and 1970

(In 1977 dollars. Numbers in thousands. Persons as of the following year. Civilian noninstitutional population 14 years and over)

Sex and age	1977		1975		1970	
	Number with income	Median income	Number with income	Median income	Number with income	Median income
WOMEN						
Total with income	19,278	$ 8,814	17,479	$ 8,691	15,518	$ 8,490
14 to 19 years	419	5,632	431	5,143	335	5,904
20 to 24 years	2,760	7,497	2,496	7,429	2,224	7,691
25 to 34 years	5,365	9,543	4,579	9,459	2,899	9,244
35 to 44 years	3,904	9,282	3,336	9,102	3,081	8,632
45 to 54 years	3,836	9,142	3,711	8,985	3,865	8,721
55 to 64 years	2,684	8,846	2,585	8,765	2,690	8,533
65 years and over	309	7,838	341	8,189	423	7,622
MEN						
Total with income	39,287	$15,070	37,278	$14,563	36,146	$14,333
14 to 19 years	584	6,042	572	6,369	419	6,164
20 to 24 years	3,622	9,800	3,303	9,594	2,700	10,386
25 to 34 years	11,267	14,129	10,256	14,170	8,763	14,242
35 to 44 years	8,899	16,863	8,382	16,497	8,649	16,009
45 to 54 years	8,425	17,029	8,331	16,609	8,756	15,499
55 to 64 years	5,733	15,669	5,518	14,981	5,757	14,156
65 years and over	758	13,815	918	12,843	1,102	10,540
RATIO: WOMEN/MEN						
Total with income	0.49	0.58	0.47	0.60	0.43	0.59
14 to 19 years	0.72	0.93	0.75	0.81	0.80	0.96
20 to 24 years	0.76	0.76	0.76	0.77	0.82	0.74
25 to 34 years	0.48	0.68	0.47	0.67	0.33	0.65
35 to 44 years	0.44	0.55	0.40	0.55	0.36	0.54
45 to 54 years	0.46	0.54	0.45	0.54	0.44	0.56
55 to 64 years	0.47	0.56	0.47	0.59	0.47	0.60
65 years and over	0.41	0.57	0.37	0.64	0.38	0.72

Source: U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-60, Nos. 118, 105, and 80.

TABLE 13

Civilian Labor Force Participation Rates, by Age, Race, and Sex: Annual Averages for 1978 and 1970

(Number in civilian labor force as percent of population in specific group. Civilian noninstitutional population 16 years and over. For meaning of symbols, see text)

Race and age	1978			1970			Percentage-point change, 1970-78[1]	
	Women	Men	Ratio: women men	Women	Men	Ratio: women men	Women	Men
BLACK AND OTHER RACES								
16 years and over	53.3	72.1	0.74	49.5	76.5	0.65	3.8	-4.4
16 to 19 years	38.1	45.4	0.84	34.1	47.2	0.72	4.0	-1.8
20 to 24 years	62.8	78.0	0.81	57.7	83.5	0.69	5.1	-5.5
25 to 34 years	68.7	90.9	0.76	57.6	93.7	0.61	11.1	-2.8
35 to 44 years	67.1	91.0	0.74	59.9	92.2	0.65	7.2	-1.2
45 to 54 years	59.8	84.5	0.71	60.2	88.2	0.68	-0.4	-3.7
55 to 64 years	43.6	69.1	0.63	47.1	79.2	0.59	-3.5	-10.1
65 years and over	10.7	21.3	0.50	12.2	27.4	0.45	-1.5	-6.1
WHITE								
16 years and over	49.5	78.6	0.63	42.6	80.0	0.53	6.9	-1.4
16 to 19 years	56.9	65.1	0.87	45.6	57.5	0.79	11.3	7.6
20 to 24 years	69.3	87.2	0.79	57.7	83.3	0.69	11.6	3.9
25 to 34 years	61.0	96.0	0.64	43.2	96.7	0.45	17.8	-0.7
35 to 44 years	60.7	96.3	0.63	49.9	97.3	0.51	10.8	-1.0
45 to 54 years	56.7	92.1	0.62	53.7	94.9	0.57	3.0	-2.8
55 to 64 years	41.2	73.9	0.56	42.6	83.3	0.51	-1.4	-9.4
65 years and over	8.1	20.4	0.40	9.5	26.7	0.36	-1.4	-6.3
RATIO: BLACK AND OTHER RACES WHITE								
16 years and over	1.08	0.92	(X)	1.16	0.96	(X)	(X)	(X)
16 to 19 years	0.67	0.70	(X)	0.75	0.82	(X)	(X)	(X)
20 to 24 years	0.91	0.89	(X)	1.00	1.00	(X)	(X)	(X)
25 to 34 years	1.13	0.95	(X)	1.33	0.97	(X)	(X)	(X)
35 to 44 years	1.11	0.94	(X)	1.20	0.95	(X)	(X)	(X)
45 to 54 years	1.05	0.92	(X)	1.12	0.93	(X)	(X)	(X)
55 to 64 years	1.06	0.94	(X)	1.11	0.95	(X)	(X)	(X)
65 years and over	1.32	1.04	(X)	1.28	1.03	(X)	(X)	(X)

[1] Differences between civilian labor force participation rates.

Source: U.S. Department of Labor, Employment and Training Administration, and U.S. Department of Health, Education, and Welfare, Office of Human Development, 1978 Employment and Training Report of the President; and U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings, Vol. 26, No. 1.

TABLE 14

Major Occupation Groups of Employed Women, by Age and Race, March 1975

	All Women		White Women		Minority Women	
Occupation Group	16 to 34 years	35 years and over	16 to 34 years	35 years and over	16 to 34 years	35 years and over
Total (in thousands)	15,664	17,384	13,759	15,235	1,884	2,148
Percent	100.0	100.0	100.0	100.0	100.0	100.0
Professional and Technical Workers......	17.5	15.2	17.8	15.5	15.0	12.7
Managers and Administrators (except farm)..	3.5	6.9	3.6	7.5	2.8	2.7
Sales Workers..........	6.6	7.0	6.8	7.7	4.4	1.9
Clerical Workers.......	39.2	31.5	39.6	33.9	36.3	14.6
Craft and Kindred Workers................	1.2	1.7	1.3	1.6	1.1	1.9
Operatives (except transport).....	8.5	12.5	7.8	12.2	14.0	13.9
Transport Equipment Operatives.............	.5	.7	.5	.7	.5	.7
Nonfarm Laborers.......	1.0	1.0	1.1	1.0	.8	1.0
Private Household Workers................	3.0	4.3	3.0	2.1	3.5	19.6
Service Workers (except private household).....	18.3	18.1	17.9	16.3	21.3	30.8
Farmers and Farm Managers..............	.1	.4	.1	.4	(1/)	(1/)
Farm Laborers and Supervisors............	.5	.9	.5	1.0	.3	.4

1/ Less than 0.05 percent.

Source: U.S. Department of Labor, Bureau of Labor Statistics: Unpublished data.

STATEMENT OF CONGRESSWOMAN PATRICIA SCHROEDER, U.S. REPRESENTATIVE, STATE OF COLORADO

Congresswoman **SCHROEDER**. Thank you.

Senator **DURENBERGER**. Pat, welcome. Thank you for being here.

Congresswoman **SCHROEDER**. Thank you very much for having the hearings. I'm very impressed with your 2 days of hearings. Do you want me to just go ahead?

Senator **DURENBERGER**. Yes, please.

Congresswoman **SCHROEDER**. I would ask unanimous consent to put my entire statement in the record.

Senator **DURENBERGER**. Without objection all of the written statements will be made part of the record.

Congresswoman **SCHROEDER**. We on the House side just cannot thank you enough for doing these 2 days of hearings. I speak on behalf of the full 127 members of our Caucus in saluting you for this early action and moving forward on the legislation.

I could go on about the many horror stories that we have all heard. What this really is, as you all know because you helped put it together is a legislative package for women who are continuing to find out that it costs more to be women in our society. That really does not seem fair in any way, shape, or form. And so as you know, and we all know, many, many hours were spent with our staffs and ourselves putting together this package, or rather an umbrella containing many, many different parts, and focusing on the fact that the fastest growing poverty group in America today is female. The feminization of poverty is very serious.

Obviously all of us at this table have a conflict of interest when we talk about the feminization of poverty and we're very glad that you on that side who don't really have a conflict of interest are still helping. I think that's important. It's not women wanting to walk in front of men or behind them, but walking alongside and finally having the economics of that react in the same manner. One of the areas that I have focused on the most in the bill, although they're all terribly important, is the child support area. I think it was a great movement in the whole country to make all divorces no fault. They decided that it was a despicable scene to have families in the court fighting over whose fault it was that a marriage came unwrapped. And so the no fault divorce really moved in a massive, massive way.

The only problem is no one thought about doing no-fault child support enforcement and as a consequence the anger that used to be shed in the courts is falling out on trying to enforce child-support orders. The statistics on child-support enforcement are a national scandal. You know, if you could buy a car in Washington, D.C., and drive it over to Maryland and not pay for it, people would be real mad. And that is happening all sorts of ways with child-support enforcement.

I think you have all heard the statistics. You all know what really happens, and the children become the pawns between a man and a wife working out all sorts of other pieces of anger, and it's not right. So we have made a massive move in the bill toward trying to make this a No. 1 Federal priority. There have been people who have summarized it as dead-beat dads. We don't really want it characterized that way. I think it's very important to characterize it as what it is—a children's right to support, and children's right to a better future. Children should not have to be involved in all the intricacies and the emotional disputes going on around a divorce.

Many other parts of the bill which will be addressed by my other colleagues here are equally important. Child support and the taxes around that, pensions and the problems of many women not finding out they are a survivor or that they have survivor's benefits until they are a survivor, and then it's a little late for all sorts of reasons all across the board. We go on and see all the problems with IRA. We have constantly told women in this society that what they should do is stay home, take care of the children, work in the home. The only problem is about 90 percent of them then find out later on ha ha, the joke's on you. For that you get no financial remuneration. They can't have an IRA, they often don't have investing rights under pensions, they become the classic displaced homemaker in many, many ways, and it's very difficult when you're later on in life trying to deal with that. It's hard enough when you're younger trying to deal with discrimination, but to suddenly wake up at 55 or 60 or any age at that level and find out that you aren't going to be taken care of all your life if you do your duty as you were told, that you've got a lot of problems.

We hope that we see fast action on it in the Senate, and we really again are very appreciative of your early hearings on the Economic Equity Act.

[The prepared statement of Congresswoman Patricia Schroeder follows:]

STATEMENT OF CONGRESSWOMAN PATRICIA SCHROEDER, COCHAIR OF THE CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES

The Congressional Caucus for Women's Issues, which Congresswoman Olympia Snowe and I co-chair, are pleased that the Senate Finance Committee has held these two days of hearings on a top priority of the Caucus—the Economic Equity Act. I know we speak on behalf of all 127 Members of the Caucus in asking for action on the Economic Equity Act.

Women who write their horror stories to members of Congress these days are not writing about abstract injustices, they are writing about specific wrongs done to them.

A Virginia man walked out of his marriage, leaving his wife with a two-month-old baby, a five-year-old girl and a seven-year-old disabled son. He remarried, and no longer pays child support.

A widow in California was denied her husband's pension because he died of a heart attack at 54, ten months before qualifying for early retirement at a company where he worked 33 years.

A housewife in Minnesota cannot use her alimony to open an Individual Retirement Account, even though it is her only source of income.

They are mothers who cannot collect child support, widows with no pensions, homemakers flung into the job market with no skills, pregnant women cracking under the strain of job and home.

Women's issues cannot be separated from the economy. Statistics starkly show that women have a lower economic status than men, and that the inequalities existing between men and women are manifested most painfully in money matters—less pay for women, discrimination against pregnant workers, unfair pension rules, lack of money to raise children.

Women in Congress grew concerned about the economic gains of the women in our country. We became aware that women's issues were no longer just the ERA and abortion. We discovered that the so-called "gender gap" is not sex-based; rather, women vote differently because of their economic status.

We grew concerned, and as members of the Congressional Caucus on Women's Issues, we did something about that concern. We looked at the areas where women make money. We looked at those areas where women need money to support themselves and their children. We looked at why women, and especially divorced women with children and older women, are often poor.

And we discovered faulty laws, unfair practices and years of tradition in the work place that keep women from economic equality. To combat that, the Economic Equity Act was born.

This legislative package, introduced in March, corrects inequities in the law that hurt the economic status of women—in private and public pensions, tax policy, childcare, child-support enforcement and insurance.

The act has specific remedies for specific problems. Instead of saying 'help children,' it toughens child-support enforcement. Instead of saying, 'help those poor displaced homemakers,' it provides tax credits for employers who hire them.

A look at the statistics on women's economic status in the United States explains why our society desperately needs specific answers to economic disparity.

Women who are financially dependent on men are vulnerable. Poverty is just a man away. A California study of 3,000 divorced couples found that after a year of divorce, the wife's income dropped by 73 percent while the husband's rose by 42 percent.

Divorced women generally have custody of the children. And as female-headed families increase, chances of being poor increase. Families headed by a woman grew 51 percent in the past decade and the number of persons in poor families headed by women rose by 54 percent. The number of persons in poor families headed by men, meanwhile, decreased by 50 percent.

Concerned women and men in Congress looked at the facts and figures about women and the economy and decided to tackle the economic injustices in one package, though parts of the Economic Equity Act will be tacked onto other bills or proposed as separate legislation.

The act has five parts, each addressing a different economic disparity. Representative Snowe will go through the act's five titles. However, I would like to note a new addition to the Economic Equity Act this Congress—Title V on Child Support Enforcement.

In the U.S. Commission on Civil Rights Report Disadvantaged Women and Their Children, the lack of strong child support enforcement was mentioned as a crucial factor in the feminization of poverty. Women who head single head of households are familiar with this important economic issue.

Child support enforcement is critical for women who are raising their children alone. When absent father shun their financial responsibilities, the mother suffers. If mothers are forced onto welfare, the taxpayers suffer. In 1979, almost 50 percent of female-headed families received Aid to Families with Dependent Children (AFDC).

But the child suffers most in a house where lack of money is an everyday source of tension. This section of the act toughens already existing laws concerning child support and provides new remedies for the collection of support money.

In 1975, Congress established the Child Support Enforcement Program. It requires each state to have an approved program of child support, but was designed primarily as a means to recover AFDC money paid to poor mothers.

The Economic Equity Act would tighten the state enforcement programs to help non-AFDC mothers collect their court-ordered support payments. Also under present law, states can notify the Internal Revenue Service about parents who owe support. That money can then be withheld from the absent parent's income-tax refund. This now applies only to parents of children receiving AFDC. The act would permit the withholding of tax refunds for all absentee parents.

The innovative part of this section requires that support payments automatically be taken out of the salary of federal employees. The federal government is the largest employer in the nation. Subtracting the court-ordered payments from federal workers' checks would make a substantial contribution to child support collections.

Automatic withholding also drains away the uncertainty of child-support payments and guarantees that the child is financially taken care of, no matter how bitter the divorce.

The Economic Equity Act brings into high relief the fact that Women's Issues today are Economic Issues. When men ask: "What do women want?" We can show them that we want equal pay, equal opportunity in the work place, equal access to insurance, equal guarantees that in our old age we won't suffer from poverty.

We want to work outside the home but also bear and raise children within the home and not be penalized on the job for our dual roles. We want the fathers of our children to share in the cost of raising those children. We want men to see that women pay equal taxes, and in return, we want equal rights and equal benefits.

Senator DURENBERGER. Thank you very much. Next on my list, Geraldine Ferraro.

STATEMENT OF HON. GERALDINE A. FERRARO, U.S. REPRESENTATIVE, STATE OF NEW YORK

Congresswoman FERRARO. Thank you, Mr. Chairman. I want to start by thanking you for holding these hearings on the Economic Equity Act and pension reform. The Equity Act, as we know, is a bipartisan House and Senate effort to improve the economic condition of women in America, be they single or married, young or old, lifelong homemakers or women who work outside the home.

This committee has already, I know, heard testimony about the range of women's economic problems. These problems follow women into their old age, making women's retirement years a time of increased poverty, not a golden age of financial opportunity and security.

I'm here today to discuss two particular sections of the Equity Act which are the pension piece and the spousal IRA. Since Chairman Dole and I have been singled out for pension sainthood—or at least a lot of mail—by financial columnist Sylvia Porter, I will start with the proposed pension reforms.

Let me make it clear what this legislation does not do, first of all. It does not solve, for men or women, the three biggest reasons why retirees receive no pensions, or very small ones. These reasons are 10-year vesting, lack of pension portability and benefits integration with social security. The pension legislation contained in the Equity Act is a first step. It would require our private pension system to recognize the contribution women make to our economy and to take into account women's unique work patterns—patterns which revolve around child rearing and other family responsibilities.

The fundamental goal of my pension bill is to require private pension plans to provide benefits to surviving spouses. Like Chairman Dole's pension bill, S. 19, my bill would allow a pension participant to waive survivor benefits only with the notorized written consent of his or her spouse.

Some 60 percent of pension participants now choose plans with no survivor benefits. It is clear from testimony I have heard and letters I've received from all over the country that many widows do not find out about their lack of pension rights until after the funeral. What we're suggesting is that they be notified ahead of time. I've been told that might lead to a higher divorce rate in our country, but so be it.

My bill has two additional provisions which seek to close loopholes that now prevent many thousands of widows from receiving survivor pension benefits.

A survivor benefit would have to be paid to the spouse even if the vested worker dies before early retirement age. The benefits would begin on the date the worker would have reached that age, had he lived.

A survivor benefit would have to be paid even if the covered worker dies of natural causes within 2 years of electing joint and survivor benefits.

A 1978 Labor Department study of survivor benefit legislation estimated that between 9,000 and 15,000 survivors of workers who died before early retirement would be added each year, at an extra cost, to plans or to participants, of about 1.8 percent of current pension costs.

The number of women affected is small but the impact on their lives is absolutely enormous We had hearings last week in the Aging Committee. EBRT, a group which has group testified before this committee as well, said it's only a small number. Well, if it's one-half million people, it's one-half million people that are suffering from these inequities, and to those women this is a big thing in their lives.

My legislation, like Chairman Dole's bill, amends ERISA to make age 21 the age at which an employer must permit a worker to participate in the company plan, earn credit toward vesting and accrue benefits. This is especially important for women, whose higher labor force participation rate—70 percent—occurs between the ages of 20 and 24. EBRI, in its hearings before our committee and again here yesterday, called this provision impractical. Again, I would just look to the fact that it is a matter of equity, a matter of equity to one-half million people which I don't think is too small or too insignificant a number. I believe young workers deserve credit for every year of service they have given their company in good faith.

The divorce provisions of both bills affirm that marriage is indeed an economic partnership in which the work of the spouse at home makes possible the work of the spouse outside the home. Both bills, in different ways, seek to assure that parents are not punished with future pension loss for taking time out for maternity or paternity. Like military service, childbearing and childrearing are clearly important public purposes.

The other section of the Economic Equity Act I'd like to discuss briefly is the section that expands spousal IRA's. IRA's are becoming an increasingly important piece in the private pension puzzle. Yet a full- or part-time homemaker's access to IRA's is extremely limited. This section would permit each spouse to deposit up to $2,000 a year in an IRA as long as one of the spouses earned at least $2,000 that year, and it would define alimony payments as earnings for the purpose of opening and maintaining an IRA. Now, IRA critics may argue that this bill would double the ability of wealthy families to defer taxes while doing little to assure retirement income for poorer families. Let me respond. For most full- or part-time homemakers, wealth is directly linked to their marriage. A death or divorce can leave them dependent on social security. I personally know elderly widows who live in homes with a market value of half a million dollars or more who don't have the money to heat them.

The purpose of IRA's is to give Americans a source of retirement income other than social security, and it is only fair that we give full recognition to the work of the homemaker. Nor should we penalize the homemaker who earns a very tiny amount of money 1 year by denying her full access to an IRA.

Middle-income families may not be able to contribute to an IRA each year, and they may not be able to contribute the full amount in any year. But they should have equal access to these opportunities for savings.

Again, I too want to thank you, Mr. Chairman, and the Finance Committee for permitting me to testify today. The Economic Equity Act is, I believe, a sensible, practical approach to a broad range of inequities facing women in today's economy.

I agree with my colleague from Maine, however, that it is only one piece. We should at the same time not forget the other parts that will lead to true economic equity for women—the equal rights amendment, equal employment opportunity, enforcement of the Equal Pay Act and so on. I do want to thank you both for your time.

[Prepared statement of Congresswoman Ferraro follows:]

STATEMENT OF CONGRESSWOMAN GERALDINE FERRARO

Mr. Chairman, I want to start by thanking you for holding these hearings on the Economic Equity Act and pension reform. The Equity Act is a bipartisan, House/Senate effort to improve the economic condition of women in America, be they single or married, young or old, lifelong homemakers or women who also work outside the home.

This Commitee has already, I know, heard testimony about the range of women's economic problems. These problems follow women into old age, making their retirement years a time of increased poverty, not a golden age of financial security.

I am here today to discuss the two sections of the Equity Act which I am sponsoring in the House. They are the Spousal IRA and the Private Pension Reform sections of Title I of the Equity Act.

Since Chairman Dole and I have been singled out for pension sainthood—or at least a lot of mail—by financial columist Sylvia Porter, let me first discuss the proposed pension reforms.

Let me make it very clear what this legislation does not do. It does not solve, for men or women, the three biggest reasons why retirees receive no pensions, or very small ones. These reasons are 10-year vesting, lack of pension portability and benefits integration with Social Security.

The pension legislation contained in the Equity Act is a first step. It would require our private pension systems to recognize the contribution women make to our economy and to take into account women's unique work patterns—patterns which revolve around child-rearing and other family responsibilities.

The fundamental goal of my pension bill is to require private penson plans to provide benefits to surviving spouses.

Like Chairman Dole's pension bill, S. 19, my bill would allow a pension participant to waive survivor benefits only with the notorized written consent of his or her spouse.

Some 60 percent of pension participants now choose plans with no survivor benefits. It is clear, from testimony I have heard and letters I've received from all over the country, that many widows do not find out about their lack of pension rights until after the funeral.

My bill has two additional provisions which seek to close loopholes that now prevent many thousands of widows from receiving survivor pension benefits.

A survivor benefit would have to be paid to the spouse even if the vested worker dies before early retirement age. The payments would begin on the date the worker would have reached that age, had he lived.

A survivor benefit would have to be paid even if the covered worker dies of natural causes within two years of electing joint and survivor benefits.

A 1978 Labor Department study of survivor benefit legislation estimated that between 9,000 and 15,000 survivors of workers who died before early retirement age would be added each year, at an extra cost—to plans or to participants—of about 1.8 percent of current pension costs.

The number of women affected is small but the impact on their lives is enormous. I see no reason why pension plans should profit from a windfall that depends on pensioners dying at the "wrong time."

My legislation—like Chairman Dole's bill—amends ERISA to make age 21 the age at which an employer must permit a worker to participate in the company plan, earn credit toward vesting and accure benefits.

This is especially important for women, whose highest labor force participation rate—70 percent—occurs between the ages of 20 and 24.

EBRI, the employer-funded pension research institute, in hearings before the House Aging Committee last week and again here yesterday, called this provision impractical and said it would help less than half a million workers.

Clearly, this provision would not help as many young workers gain pension benefits as would a reduction in the number of years required for vesting. But a half million is not an insignificant number. And I believe young workers deserve credit or every year of service they have given their company in good faith.

The divorce provisions of both bills affirm that marriage is indeed an economic partnership where the work of the spouse at home makes possible the work of the spouse outside the home.

Both bills, in different ways, seek to assure that parents are not punished, with future pension losses, for taking time out for maternity or paternity. Like military service, child-bearing and rearing are clearly important public purposes.

The other section of the Economic Equity Act I would like to discuss briefly is the section expanding spousal IRAs. IRAs are becoming an increasingly important piece in the private pension puzzel. Yet a full or part-time homemaker's access to IRAs is extremely limited.

This section of the Act would permit each spouse to deposit up to $2,000 a year in an IRA, as long as at least one of the spouses earned at least $2,000 that year. And it would define alimony payments as earnings for the purpose of opening and maintaining an IRA.

IRA critics may argue that this bill would double the ability of wealthy families to defer taxes while doing little to assure retirement security for poorer families.

Let me respond. For most full or part-time homemakers, wealth is directly linked to their marriage. A death or divorce can leave them dependent on Social Security. I personally know elderly widows, who live in homes with a market value of half a million dollars, who don't have the money to heat them.

The purpose of IRAs is to give Americans a source of retirement income other than Social Security. It is only fair that we give full recognition to the work of the homemaker. Nor should we penalize a homemaker who earns a very tiny amount of money one year by denying her full access to an IRA.

Middle income families may not be able to contribute to an IRA every year, nor, perhaps contribute the full amount in any year. But to extent they do find opportunities for savings, homemakers should have equal access to these opportunities.

Mr. Chairman, I again want to thank you and the Finance Committee for permitting me to testify here today. The Economic Equity Act is a sensible, practical approach to a broad range of inequities facing women in today's economy.

STATEMENT OF HON. BARBARA B. KENNELLY, U.S. REPRESENTATIVE, STATE OF CONNECTICUT

Senator DURENBERGER. Thank you very much. Barbara.

Congresswoman KENNELLY. Thank you very much, Mr. Chairman. I have read some of the testimony that you have already had before this committee and it's absolutely excellent, and I am going to focus, as our co-chair Congresswoman Schroeder did, on the Child Support Enforcement Improvements Act of the Economic Equity Act. It's my pleasure to tell you this morning that as a member of Ways and Means and as a member of the Subcommittee on Public Assistance, we are going to have hearings on this act—this piece of the act. I think one of my greatest bargaining chips in trying to get time for those hearings was the fact that you are holding these hearings on the Senate side. I can't thank you more than just to sit here and say thank you very much because you were a big part in letting me get this time.

I'm here to tell you, as you know and I know, but we have to keep repeating it, that it's imperative that we make improvements in child support enforcement. The level of compliance with court orders to pay child support in this country is a disgrace. It is easier for parents to evade their responsibilities to their children than it is for them to evade their responsibilities for car payments. Only 35 percent of the women heading single families in 1978 were receiving child support payments. Fewer than 25 percent were receiving payments in full.

Our goals in developing these child support enforcement improvements are to strengthen the program and to be sure it is working for all children entitled to child support payments. The IV-D program gives us a foundation to build on and to see that child support payments are collected in full and on time nationwide. But we do not have a program now that is anywhere near as efficient or effective as we want it to be.

The Ford Motor Credit Co. cannot stay in business with a 35-percent collection rate, and neither can most single parent families stay off public assistance when an irresponsible former partner won't pay. If we really want to turn around the numbers on the cost of welfare, then we must turn around the perception in this country, that irresponsible parents can get away with not paying for child support. With more than 1 million divorces each year, and that's why Congresswoman Ferraro said so be it—I think we are the ones who have to address something that is part of our society, unfortunately, today. Only half the children born today are expected to spend their entire childhood with both natural parents. It is a very small percentage of what it was only a few years ago. It is no surprise this issue is receiving increased attention, and it is for us to respond to this attention.

In Connecticut, the Parents for Enforcement of Court Ordered Support, PESCOS, began only 1 year ago, but has grown already to 5 chapters with 150 members. It has successfully pushed through the State legislature an improved mandatory wage assignment law that is now awaiting Governor O'Neil's signature.

For the women who belong to groups like PESCOS, we are not talking about leisure time activity. These are single parents working sometimes two or three jobs. They don't have the luxury of time or money to do a lot of lobbying. When they come to talk to Government officials in Washington or back home in State capitols, it's because they absolutely have to be there. When these women talk about child support for their children, they are talking about basic necessities as you well know—not the extras that so many of us take for granted. The mean average collected by all families in 1978 was less than $3,000 a year.

When we look at this issue, we cannot sweep under the carpet the fact that many of the women owed child support and their former husbands feel angry, bitter, or humiliated. Once you scratch the surface of the child support issue, you realize you are digging into something highly charged and very sensitive. Because of this, the sponsors of the Child Support Enforcement Improvement Act have aimed to include in the legislation measures that would diffuse some of the conflict arising in the enforcement of child support orders, as well as to improve the program's efficiency. That is why we have insisted that child support in the States be handled by a quasi-judicial or administrative agency. Not only will proceedings be handled more expeditiously, but there will also be less of the confrontational atmosphere that the courtroom inspires.

Again, diffusing emotion is one of the reasons why we have insisted upon the establishment of clearinghouses. When support payments are monitored accurately and impartially, there is less opportunity for recriminations between former partners. No one today underestimates the emotional trauma experienced by a family at the time of divorce or separation. It is a time for us also to become aware of the economic deprivation of children of divorce and what they suffer. I believe this comprehensive child support enforcement legislation will make a significant difference in the lives of these children, and I know I don't have to urge this committee, but I think we're moving. I think we're making some progress in understanding that we can't totally rely on assistance programs. That is why this piece of the Women's Economic Equity Act also focuses on non-AFDC parents who are not doing their duty, and I just thank you today for letting us come, letting the records show that we are interested. We know there are people out there that are desperate for our help, and thank you for letting me be here today.

[Statement of Representative Barbara B. Kennelly follows:]

STATEMENT OF REPRESENTATIVE BARBARA B. KENNELLY

Thank you for the opportunity to appear before the Senate Finance Committee today. I know you have heard from many impressive witnesses and, as I have had the opportunity to read some of this afternoon's testimony already, I know you will receive equally valuable information today. In the interest of time, I will keep my remarks to a minimum and focus on the Child Support Enforcement Improvements section of the Economic Equity Act.

Before I begin, I want to inform you that the Public Assistance Subcommittee of Ways and Means, on which I serve, is planning hearings on the Child Enforcement section of the Economic Equity Act for sometime in July. I am happy to report that there is growing interest in the issue among members of the Committee. Already eight members of Ways and Means are cosponsors of this section as introduced in a separate bill, and I hope more will be coming on board shortly. With your help, the House and Senate will surely be able to work together and enact improvements in the child support enforcement program this year.

It is imperative that we do make improvements in child support enforcement. The level of compliance with court-orders to pay child support in this country is a disgrace. It is easier for parents to evade their responsibilities to their children than it is for them to evade their responsibilities for car payments. Only 35 percent of the women heading single parent families in 1978 were receiving child support payments. Fewer than 25 percent were receiving payments in full. Our goals in developing these child support enforcement improvements are to strengthen the program and to be sure it is working for all children entitled to child support payments. The IV-D program gives us a foundation to build on to see that child support payments are collected in full, and on time, nationwide, but we do not now have a program that is anywhere near as efficient or effective as we want it to be.

The Ford Motor Credit Company cannot stay in business on a 35-percent collection rate; and neither can most single parent families stay off public assistance when an irresponsible former partner won't pay. If we really want to turn around the numbers on the cost of welfare than we must turn around the perception in this country that irresponsible parents can get away with not paying child support.

With more than one million divorces each year, and with only half the children born today expected to spend their entire childhood with both natural parents, it is no surprise this issue is receiving increased attention in the media and that groups are quickly forming to lobby for better state law on child support enforcement. In Connecticut, the Parents for Enforcement of Court Ordered Support (PECOS) began only one year ago, but has grown already to 5 chapters with over 150 members. It has successfully pushed through the state legislature and improved wage assignment law that is now awaiting the Governor's signature. For the women who belong to groups like PECOS, we are not talking about a leisure time activity. These are single parents, working sometimes two or even three jobs. They don't have the luxury of time or money to do a lot of lobbying. When they come to talk to government officials in Washington or back in State capitols, they are there because they absolutely have to be. When these women talk about child support for their children they are talking about basic necessities, not the extras that you and I take for granted. The mean average collected by all families in 1978 was less than $2,000 a year.

When we look at this issue we cannot sweep under the carpet the fact that many of the women owed child support and their former husbands feel angry, bitter, or humiliated. Once you scratch the surface of the Child Support issue you realize you are digging into something highly charged and very sensitive. Because of this the sponsors of the Child Support Enforcement Improvements Act have aimed to include in the legislation measures that would defuse some of the conflict arising in the enforcement of child support order, as well as improve the programs efficiency. That is why we have insisted that child support in the States be handled by quasi-judicial or administrative agencies. Not only will this mean proceedings are handled more expeditiously, there also will be less of the confrontational atmosphere that the courtroom inspires. Again, defusing emotion is one of reasons why we have insisted upon the establishment of clearinghouses. When support payments are monitored accurately and impartially, there is less opportunity for recriminations between former partners.

No one today underestimates the emotional trauma experienced by a family at the time of divorce or separation. It is time for us also to become aware of the economic deprivation children of divorce too often suffer. I believe this comprehensive child support enforcement legislation will make a significant difference in the lives of these children and I urge the Committee to consider the bill favorably. Thank you again.

Senator **Durenberger**. Thank you very much, and again, let me repeat the gratitude that we feel for you. There are only 2 women in the U.S. Senate and they are, I guess, 2 out of 12 or something like that out of 1,700 and some Senators that we have had over the years, and while obviously the quality is high, there is something to be said for numbers, so we are obviously grateful for a couple of things: No. 1, your numbers are so much larger over there, and your ability to articulate a lot of these problems is superior to any of us males no matter how great we may think the issue.

Yesterday was sort of a frustrating day. We spent a lot of the time in the pension area, and by the end of the day I was getting the impression that the opponents had developed some kind of a notion that we sit here with some stereotypes of the working woman, and we are trying to take that stereotype and do something about it legislatively and they look at their actuarial tables and their statistics and they say hey, your old stereotype of the in and outer and all that sort of thing has blown away. Women are now coming out of the home, into the work force and they are going to work these 40-year careers and so forth just like the males, so we don't need any of that stuff.

Fortunately, the point that all of you have made about getting us off of that sort of averaging that actuarial computation of what we're doing and get down to real cases. I was really grateful for whoever set up the agenda, that the Chamber of Commerce witness was followed directly by a widow and a woman who is about to be a widow, who could testify to the survivorship problems. I mean, it looks relatively minor in a piece of legislation. It looks like it doesn't affect a lot of people. The fact of the matter is that it does affect people, and the people that it affects are all women. I don't know how that notion can be gotten across in this country so that we can get a few more Senators to come to these hearings, you can get hearings more quickly on the House side and we can do something about passing this bill.

So all I can do is again to thank you and to encourage you, to let you know that we on this side very much need your help. This is a totally nonpartisan effort. There just isn't any politics anywhere that I can find in this process and maybe since this is approaching an election year, that's the wrong way to go about it. Maybe we ought to politicize this thing or something like that. But I don't think anybody who has been involved in it as long—Bob Packwood has been at this so much longer than any of the rest of us—but as long as we have been at it, nobody wants it politicized, but for some reason or other nonpolitical things just don't have the same kind of momentum, but despite that frustration, I appreciate your being here and Bob, do you have questions or comments?

Senator PACKWOOD. I want to ask Olympia one question. Dave indicated how long I'd been at this. I've been at it long enough to see the pendulem swing both directions on taxation of head of households and singles vis-a-vis marriage and we came reasonably close to equalizing it around 1973. It progressed from $1,600 and $1,800, or from $1,900 and $2,200, and then it started to spread apart again between the heads of households and the singles and the marrieds. How do we overcome the argument that is used—if it's equalized, then you get the argument about the marriage penalty and the situation with two 30-year-old people, maybe they're both heads of households, maybe not, and it's cheaper for them to live together than to get married, and you recall with Congresswoman Fenwick and Senator Mathias and the marriage penalty tax and indeed, we widened it to take care of that inequity. And I did once see some figures but they're completely unacceptable. The only way to equalize it is you give everybody the benefit of the lowest possible tax whether they are married, single, or heads of households, even though, that would cost the Treasury $32 or $33 billion a year.

Congresswoman SNOWE. I agree that there does exist a problem, but I do believe it's a slight problem. It may slightly increase the marriage penalty, but overall I think we still have to underscore the argument that we are talking about equality, and you're really putting people who are heads of households at a tremendous disadvantage. The Tax Code cannot possibly compensate the two wage earners in the family, and it simply does put them in a financially disadvantageous position. I know that at one point the head of household zero bracket amount was equal to the amount and for married couples, we did have this argument about the marriage penalty. We are trying to resolve that issue through the tax bill that we passed last year.

But I think we can't put the burden on the person who happens to be a head of household especially when they are increasing in greater numbers than ever before.

Senator PACKWOOD. I think that's probably the fairest way to answer it because the only time one gets the marriage penalty in any kind of extremity is when there are two people making roughly the same amount in income, mean; a man and a woman that are making around $20,000 to $35,000 a year apiece, and they get married. Far be it for me to say that anybody's adequately well off in making certain amounts of money, but in comparison to the single parent with one income, as to whether or not that person is harder hit than the married couple jointly making $40,000 to $60,000—I don't think there's any comparison.

Congresswoman **Ferraro**. Senator, if I could just make one comment about your concept. When I was first elected and first ran for office in 1978, I did not run as a feminist. I ran as a tough prosecutor from New York City. My slogan was "Finally a Tough Democrat," which really just blew the minds of every other Democratic elected official in the county. But when I got down here, I started to look at the problems that were coming to me from my constituents. I represent the oldest median age congressional constituency in the State of New York. I have over 100,000 senior citizens. They're blue collar ethnics, middle-class hardworking people who have pinched pennies all their lives. Many of them are women who have done the traditional thing of staying home. A good number of these women are living on social security alone, and a good number of them are paying taxes on homes that they've owned for two and three generations, and they're just not making it. They're too proud to go for food stamps or for any other assistance that this Government provides for them. Those are the people that we're looking at. We've got to do something about having them participate in pensions. We have got to do something about giving them the ability to save in an individual retirement account, I don't care if anybody comes in and says the number is small. My response is, "I don't care how small it is."

We hear the argument that there won't be meaningful benefits. Well, to a woman who's getting only a couple of hundred dollars a month from Social Security, even if it's $25 or $30 from a pension plan a month, it may not be meaningful to the people who are writing those models that they're working with, but it's meaningful to her. And I think that the importance of the legislation, as you pointed out, is the fact that it does deal with human problems. There is a distinct class of people, in this country who are being severely affected by the economic situation. I think that the administrative costs that the pension plans will throw up at us, those are negligible compared to human suffering that is going on. I think that the costs to the Treasury—we've done a cost analysis of these bills—that's negligible too. So I would urge your committee to move forward with this legislation and we'll attempt to do so in the House as well.

Senator **Durenberger**. Well, thank you all very much. I appreciate your testimony and your efforts on behalf of this legislation.

Next we will have a panel—unless Arlen Specter is out there somewhere and I don't see him—we will have a panel consisting of Ralph G. Neas, executive director, the Leadership Conference on Civil Rights, Washington, D.C.; Donna Lenhoff, associate director for legal policy and programs, Women's Legal Defense Fund; Judith I. Ivner, the State attorney for NOW Legal Defense and Education Fund; Johanna Mendelson—Dr. Johanna Mendelson, director of public policy for the American Association of University Women; Warlene Gary, national officer of the Americans for Democratic Action. We welcome all of you. Your statements will be made part of the record and we'll lead off with Ralph Neas, and if I need to add to what others already know, there probably isn't any part of this act that Ralph doesn't know because a long time ago before we met, he was working on this effort to eliminate legislative and legal discrimination against women, and I am indebted to him for having done all that work when he came to work for me way back in the end of 1978, and the person who probably really kicked off the effort to go and get this job done. Ralph, thank you very much for being here.

STATEMENT OF RALPH G. NEAS, EXECUTIVE DIRECTOR, LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. Neas. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Ralph Neas. I am the executive director of the Leadership Conference on Civil Rights, a coalition of 165 national organizations representing minorities, women, labor, religious groups, the disabled, and senior citizens.

I very much appreciate the opportunity to testify today on behalf of the leadership conference. For the Economic Equity Act is one of the conference's top legislative priorities in the 98th Congress. Indeed, for the past several months, scores of LCCR organizations, along with many groups outside the conference, have been meeting on a daily basis to help coordinate the national lobbying campaign in support of this legislation.

The leadership conference would like to commend Senator Dole publicly for holding these hearings on economic equity issues. By scheduling them early in the 98th Congress and by introducing his own measures addressing sex discrimination in pensions and in the Federal Code, he has demonstrated once again his commitment to promoting fundamental fairness in our Nation's laws. We just hope that his counterparts in the House of Representatives will quickly follow the example of this committee.

The leadership conference owes a special debt of gratitude to you, Senator Durenberger, and to you, Senator Packwood. For the past 3½ years, as coauthors of the Economic Equity Act, you have provided the leadership that has guided this historic measure to the forefront of congressional attention and consideration. Along with the Congressional Caucus for Women's Issues, you are responsible for legislation that now has more than 30 cosponsors in the Senate and 130 cosponsors in the House of Representatives. The bipartisan congressional coalition that has rallied around the Economic Equity Act reflects the type of effort that propelled the Voting Rights Act Extension to such a stunning victory in the 97th Congress.

Yesterday, several leadership conference organizations testified on behalf of the Economic Equity Act, and more will follow today. These groups will document in great detail the need for comprehensive legislation to remedy the pervasive problems of economic equity in this country, and they will demonstrate in particular the need for the passage of Senate bill 888. Therefore, on behalf of the leadership conference, I would like today to just provide a brief overview of some of the pension issues addressed by S. 888 and by S. 19.

The private pension system as regulated by ERISA affects women both in their roles as the wives of workers who participate in pension plans and as women in the work force who seek to become eligible for pensions of their own. Yet, current retirement income policies fail to adequately take into account the valuable economic contributions of women in their capacity as homemaker and the unique employment patterns of women in paid employment.

These inequities bear partial responsibility for the economic hardship facing most women when they reach the so-called golden years. Both S. 19 and the private pension reforms included in S. 888 represent significant first steps in making our private pension system more equitable toward women. Consistent with the principle that marriage is an economic partnership, both bills would require that the plan participant and the spouse consent before a survivor's benefit can be waived. And both would make explicit provision for the division of accrued pension benefits at the time of divorce.

In recognition of the fact that women enter the workshop at an earlier age, S. 888 and S. 19 would reduce the minimum for participation from age 25 to 21. They also would liberalize current break-in-service rules to avoid current penalties for the worker who temporarily leaves the work force due to child birth. However, we believe that the break-in-service provisions provided under S. 888 are more helpful to women.

In addition, S. 888 provides a provision which would require payment of survivor's benefits to the spouse of a worker who was fully vested.

Some important problems women face with respect to current private pension practices are not addressed by either S. 888 or S. 19. Further changes that are needed include:

First, amending ERISA to require fewer years for full vesting.

Second, eliminating the use of sex-based actuarial tables in all pension programs.

Third, changing the integration rules so that all covered employees would be assured an adequate pension benefit.

Fourth, instituting portability of vested pension credits from one plan to another.

Mr. Chairman, the legislation now before the Senate Finance Committee represents an historic first step in the march toward eliminating sex discrimination in our Nation's economic life. Indeed, perhaps no measure before this committee in this session would benefit so many so much. Not just the millions of women who are now victims of economic discrimination, but also the many millions who will benefit far into the future.

It is also imperative that we point out explicitly the significance of this set of hearings. For someday, when the history of economic equity legislation is written, these hearings will be remembered as a key event in the legislative process. For these 2 days signify the commitment of the Senate Finance Committee to address these important issues and to set in motion the forces which will report landmark legislation to the floor of the U.S. Senate. The Leadership Conference on Civil Rights is proud, honored, and grateful for the chance to be a participant in these proceedings.

In the coming weeks, the Leadership Conference looks forward to working with the Senators and staffs of the committee. We hope that you will take advantage of the considerable expertise and the resources that the member organizations of the coalition can provide. Together we can assure the expeditious consideration and enactment of this vital legislation and achieve another milestone in furthering our Nation's irrevocable commitment to equality of opportunity for all our citizens.

Thank you, Mr. Chairman.

Senator DURENBERGER. Thank you very much.

Ms. Lenhoff?

[The prepared statement of Ralph G. Neas follows:]

Statement of Ralph G. Neas
Executive Director
Leadership Conference on Civil Rights
Regarding Senate Bill 888 and Senate Bill 19

June 21, 1983

Mr. Chairman and members of the Committee, my name is Ralph G. Neas. I am the Executive Director of the Leadership Conference on Civil Rights, a coalition of 165 national organizations representing minorities, women, labor, religious groups, the disabled and senior citizens.

I very much appreciate the opportunity to testify today on behalf of the Leadership Conference. For the Economic Equity Act is one of the Conference's top legislative priorities in the 98th Congress. Indeed, for the past several months, scores of LCCR organizations, along with many groups outside the Conference, have been meeting on a daily basis to help coordinate the national lobbying campaign in support of this legislation.

Mr. Chairman, the Leadership Conference would like to commend you publicly for holding these hearings on economic equity issues. By scheduling them early in the 98th Congress and by introducing your own measures addressing sex discrimination in pensions and in the Federal Code, you have demonstrated once again your commitment to promoting fundamental fairness in our nation's laws. We just hope that your counterparts in the House of Representatives will quickly follow your example.

The Leadership Conference owes a special debt of gratitude to Senator Dave Durenberger, my former boss, and Senator Bob Packwood. For the past three and one-half years, the Senate co-authors of the Economic Equity Act have provided the leadership that has guided this historic measure to the forefront of congressional attention and consideration. Along with the Congressional Caucus for Women's Issues, they are responsible for legislation that now has more than 30 cosponsors in the Sen, and 130 cosponsors in the House of Representatives. The bipartisan congressional coalition that has rallied around the Economic Equity Act reflects the type of effor that propelled the Voting Rights Act Extension to such a stunning victory in the 97th Congress.

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Pensions

The private pension system as regulated by ERISA affects women both in their roles as the wives of workers who participate in pension plans and as women in the workforce who seek to become eligible for pensions of their own. Yet, current retirement income policies fail to adequately take into account the valuable economic contributions of women in their capacity as homemaker and the unique employment patterns of women in paid employment.

These inequities bear partial responsibility for the economic hardship facing most women when they reach the so-called golden years. Women are 74% of the elderly poor; single women are 85% of all elderly people living alone below the poverty line. The existence of a private pension is frequently what distinguishes the women who do live in poverty from women who do not, and currently, only 10% of elderly women ever receive pensions, with their median income from this source being only $1400 per year.

Both S. 19 and the private pension reforms included in S. 888 represent significant first steps in making our private pension system more equitable toward women. Consistent with the principle that marriage is an economic partnership, both bills would require that the plan participant and the spouse consent before a survivor's benefit can be waived. And both would make explicit provision for the division of accrued pension benefits at the time of divorce.

In recognition of the fact that women enter the workforce at an earlier age, S. 888 and S. 19 would reduce the minimum participation from age 25 to 21. They also would liberalize current break-in-service rules to avoid current penalties for the worker who temporarily leaves the workforce due to childbirth. However, we believe that the provisions provided under S. 888 are more helpful to women.

In addition S.888 includes a provision which would require payment of survivor's benefits to the spouse of a worker who was fully vested. Under current law, vested benefits can be forfeited back to the plan if the worker dies before he retires, or if he dies within two years of choosing survivor's benefits, if his death was from natural causes. Horror stories abound about widows who lost pension benefits which their husbands worked a lifetime to accumulate because of these two provisions. The Leadership Conference believes that adequate protection of survivors benefits once an employee has fully vested is crucial to any meaningful pension reform effort.

Some important problems women face with respect to current private pension practices are not addressed by either S. 888 or S. 19. Further changes that are needed include:

1. Amending ERISA to require fewer years for full vesting. Current pension plans rely on the forfeiture of benefits by short-term workers, mostly women, to subsidize benefits for longer-service employees, mostly men. Substantially

lowering the minimum service requirements would help eliminate this inequity and assure workers of their right to the benefits they have earned.

2. Eliminating the use of sex-based actuarial tables in all pension programs. This blatantly discriminatory practice must be stopped.

3. Changing the integration rules so that all covered employees would be assured an adequate pension benefit.

4. Instituting "portability" of vested pension credits from one plan to another. With lower vesting requirements, portability is necessary so workers do not have small accrued benefits scattered in several different pension plans. Portability would allow workers to change jobs without losing pension protection.

The problems in the private pension system will increase as our elderly population grows and inflation increases. Federal laws and regulations governing pension plans must be reviewed and significant steps taken to eliminate the discrimination against women implicit in the present pension system. Simple justi and common sense require that the pension system be changed so that all Americans can look forward to their later years with the assurance of adequate financial security.

Dependent Care

The dependent care tax credit is of vital importance to the millions of families who must arrange for the care of their children or elderly or disabled family members while they are working outside the home. It is of particular importance to women because they are the individuals most likely to be faced with the responsibility of dependent care. Moreover, primarily because of economic necessity, the number of women in outside employment is increasing -- 43 million in 1980 expected to reach 60 million by the end of the decade. Access to affordable dependent care is crucial to ensure that women have the same latitude as men to enter and continue in the job market, particularly in these difficult economic times.

In 1981, Congress replaced the previous flat rate credit for dependent care with a sliding scale to give greater benefit to low-income households. Currently, the scale allows a 30% credit for dependent care expenditures up to $2400 for taxpayers with incomes of $10,000 or less, decreasing to 20% for those with incomes of over $28,000. However, a family earning $10,000 a year would have to spend nearly one-fourth of its income to receive the maximum credit of $720. The Economic Equity Act would raise the scale to 50% to provide a more realistic level of support to working families with dependent care expenses. It would also make the credit refundable so that low income families whose credit exceeds their tax liability will have full access to the credit.

The Economic Equity Act would also enable non-profit organizations providing work-related dependent care to be eligible for tax-exempt status. And finally, the bill would provide "seed money" to community based clearinghouses to meet the increasing demand for child care information and referral.

Child Support

Child support enforcement is a critical economic issue to women who head single parent families. When absent fathers default on their responsibility, the mother pays. If mothers go on welfare, the taxpayer assumes the father's child support obligations. Only 35% of the 7.1 million women bringing up children from an absent father receive any child support, and only 24% receive full payment. In other words, 65% are raising their children without any financial aid from the absent father. Can it be any surprise then that over ½ of all children in poverty live in female-headed families, and 2/3 of children in female-headed families depend on AFDC?

The current child support enforcement program requires that states develop a mechanism to recover child support payments for all children who fail to receive support payments from parents. However, many states have concentrated on seeking support payments from fathers whose children are on AFDC. Title V of the EEA clarifies that states must make child support enforcement efforts on behalf of non-AFDC families, as well as establish certain procedures to improve collections for all families.

Title V would also create a procedure for automatic mandatory assignment of wages and pensions for all federal civilian employees for the purpose of paying court-ordered child support obligations.

More Tax Reform

Heads of Households

Over 2/3 of single heads-of-households are women who alone face the financial obligations of supporting dependents and maintaining a house. Current tax law discriminates against single heads of households by allowing a smaller zero bracket amount ($2300) than married couples ($3,400) even though both have the same kinds of responsibilities and financial obligations. The EEA would raise the zero bracket amount for heads-of-households to that of married couples filing jointly.

IRAs

Individual Retirement Accounts are essential to the retirement planning of mi of Americans. Benefits of IRA participation, however, have been skewed heavily toward working males and away from women who work in the home or in low paying jobs. Consistent with the principle that marriage is an economic partnership, the EEA would permit a homemaker with no earnings or lesser earnings of her own to contribute to a spousal IRA as much as her husband may contribute. It would also permit alimony to be treated as compensation for the purpose of eligibility to open an IRA.

Displaced Homemakers

An estimated 3.3 million women are displaced homemakers--women who have spent years in the home caring for family members and subsequently lost their source of support through separation, divorce, or disability. In order to help these women make the difficult transition from homemaker to wage earner, the EEA would include displaced homemakers in the targeted jobs tax credit program.

Conclusion

The legislation now before the Senate Finance Committee represents an historic first step in the march toward eliminating sex discrimination in our nation's economic life. Indeed, perhaps no measure before this Committee in this session would benefit so many so much. Not just the millions of women who are now victims of economic discrimination, but also the many millions who will benefit far into the future.

Mr. Chairman, it is also imperative that we point out explicitly the significance of this set of hearings. For someday, when the history of economic equity legislation is written, these hearings will be remembered as a key event in the legislative process. For these two days signify the commitment of the Finance Committee to address important issues and to set in motion the forces which will report landmark legislation to the floor of the Senate. The Leadership Conference on Civil Rights is proud, honored, and grateful for the chance to be a participant in these proceedings.

In the coming weeks, the Leadership Conference looks forward to working with the Senators and staff of this Committee. We hope that you will take advantage of the considerable expertise and the resources that the member organizations of the coalition can provide. Together we can assure the expeditious consideration and enactment of this vital legislation and achieve another milestone in furthering our nation's irrevocable commitment to equality of opportunity for all our citizens.

STATEMENT OF DONNA R. LENHOFF, ASSOCIATE DIRECTOR FOR LEGAL POLICY AND PROGRAMS, WOMEN'S LEGAL DEFENSE FUND, WASHINGTON, D.C.

Ms. Lenhoff. Thank you.

Mr. Chairman and members of the committee, I appreciate your providing me the opportunity to testify today on behalf of the Women's Legal Defense Fund. The Women's Legal Defense Fund is a tax-exempt, not-for-profit membership organization based in Washington, D.C., and founded in 1971 to challenge sex-based discrimination and to promote attention to women's concerns in the legal system. We are also a member of the Leadership Conference on Civil Rights.

Each year the Women's Legal Defense Fund receives and answers over 4,000 telephone calls from women in the metropolitan area with questions about domestic relations matters. A great many of these calls are from women who are experiencing difficulty in obtaining adequate support for their children. For this reason I will focus today only on the child-support provisions of the Economic Equity Act. I understand that several of the other witnesses on this panel will focus on the other areas, and so you will get some specific indepth testimony from this panel as well as more of an overview.

Our work in the field has convinced us that child support is an issue vital to the economic and social well-being of women and their children. We hear daily from women whose standard of living has suffered a dramatic decrease as a result of marital breakup; who feel unable adequately to support their children alone; who are dismayed that the meager amounts that they were awarded by the courts are not paid; who are unable to afford an attorney to collect support for them, and who have lost faith in the ability of the legal system to help them obtain what they and their children are due and need so greatly.

On a national level, these individual stories make a composite picture showing inadequate child support to be a major economic and social problem for the well-being of women, children, and families. Your committee is already familiar with the statistics that show how serious an economic problem this is, and my written testimony discusses it at greater length. The bottom line is that 60 to 80 percent of children eligible for child support receive none, and even for those families who do receive some child support, it generally is not the major source of support for the children.

For approximately half the families receiving child support, payments were less than 10 percent of total family income.

It cannot be concluded that the reason for these statistics is that the absent parents, generally the fathers, are unable to pay more support than they do. A Colorado study found that two-thirds of fathers were ordered to pay less per month for child support than they paid for their car payments. A California study found that following divorce, men experienced a 42-percent increase on the average in their standard of living while women and their children experienced a 73-percent loss. A Cleveland, Ohio, study found that most ex-husbands retained 80 percent of their former personal income after divorce, even after all alimony and child support were paid.

Three principle problems explain these alarming national statistics on the unjust economic suffering of women and children living in mother-only households, on the functional level. First, many mothers are never awarded a child-support order by the courts. Second, when court support orders are issued, they are frequently woefully inadequate and do not keep up with inflation. And third, most mothers with child-support orders are unable to enforce them.

The child-support provisions of the Economic Equity Act address each of these three major problem areas and require States to take specific steps to address each.

We support the basic thrust of these provisions and I will discuss several of the provisions in detail today. Our written testimony covers most of the others as well.

The problem of the complete lack of a support award is particularly acute for women who do not receive AFDC benefits, but are unable to afford an attorney to establish or collect child-support payments, and for women with out-of-wedlock children who must prove paternity before their children are eligible for support.

The problem of non-AFDC recipients' need for representation in these cases has grown particularly acute because of the cutback in funding for the Legal Services Corporation, which has resulted in drastic decreases in the legal representation previously available for poor women in all domestic relations cases. Note that in the Washington, D.C., area, attorneys charge anywhere from $60 to $100 an hour for representation. A very large class of calls that we get at the Women's Legal Defense Fund is from people who simply cannot afford that, for whom it is simply not cost effective to get the little amounts of child support that they have been awarded if they have to pay attorneys' fees at that kind of a rate.

The Women's Legal Defense Fund thus welcomes the emphasis in the proposed legislation on assuring compliance with obligations to pay child support to each child in the United States; that is, to non-AFDC children as well as to AFDC children. To the extent that these and other hearings reiterate Congress intent that all children, and not only those receiving AFDC payments be served by the program, they should be helpful in encouraging the Office of Child-Support Enforcement to enforce this aspect of the program and to drop efforts currently underway to have State programs emphasize AFDC collection efforts over non-AFDC efforts.

We further recommend revising section 501(a) of title V to omit the phrase, "living with one parent," as children living with someone other than a parent also may need and be entitled to child-support payments. This language is more limited than the committee, I am sure, intends.

Turning to the problem of establishing paternity, scientific advances have provided new and very sophisticated blood tests that are highly reliable in proving paternity. In many States, however, rules of evidence are still based on older and far less reliable blood tests and therefore exclude their use to prove paternity although they can be used to disprove it. Similarly, fathers may sometimes refuse to cooperate in blood test efforts. The EEA provisions require States to allow use of highly reliable blood tests to prove paternity and to provide for a default paternity proceeding if the father refuses to cooperate.

We support the thrust of both of these provisions, but suggest that the language be changed to require specifically that States make the results of such tests admissible in evidence to prove paternity affirmatively. The second provision might require States to allow proof of refusal to cooperate in blood testing to be an admission of paternity or to be affirmative proof of paternity.

In addition, a number of States still have statutes of limitation on the filing of paternity actions. Because establishment of paternity is a prerequisite to entitlement to support, many nonmarital children are effectively denied the possibility of support by these statutes. The Supreme Court has ruled both 1 and 2 year statutes of limitations unconstitutional in the cases of *Mills* v. *Habluetzel* and *Pickett* v. *Brown*, the latter case decided very recently on June 6 of this year.

Senator DURENBERGER. Are you getting close to a conclusion, because——

Ms. LENHOFF. My time is running—is that the problem?

Senator DURENBERGER. Yes.

Ms. LENHOFF. OK. Let me then turn specifically to one of the points that I would like to emphasize, which has to do with the problems of support awards in inadequate amounts and inconsistency in support awards.

To address this problem, the bill requires States to establish an objective standard to guide in the establishment of support obligations such that in comparable amounts of support are awarded in similar situations. However, this provision embodies a cost-sharing approach to determinations of support, which is based on the assumption that the costs of raising a child are fixed and measurable and should simply be split between the parties. The problem with this approach is that if the children reside with the mother whose earning power, income, and resources are likely to be more limited than the father's, then the cost of their support will be similarly lower than it would have been before the divorce. By starting with a low assumed standard of living, the cost-sharing approaches encourages a low child-support award and perpetuates the too low standard of living.

In contrast, a resource-sharing approach benefits the children proportionately from the resources of each parent. In other words, with a resource-sharing approach, children would not suffer a decline in their standard of living in the event of divorce.

While the EEA requires that States have guidelines for determining the amount of support it embodies the less preferable cost-sharing approach. This is a severe problem. We would prefer a requirement in the EEA that States establish guidelines to embody the resource-sharing approach. But in the alternative, we suggest that the provision be dropped from the bill altogether and that a requirement be substituted that the Office of Child Support Enforcement conduct or commission a thorough study of support guidelines so that there can be a data base and a research base for States to use to establish more equitable guidelines.

Senator DURENBERGER. Now we're at the conclusion?

Ms. **Lenhoff**. Yes; my written testimony talks at greater length about the specifics of the legislation and our concerns.

Senator **Durenberger**. It will all be made part of the record.

Ms. **Lenhoff**. Thank you.

Senator **Durenberger**. Thank you. I probably neglected to make the point that all of your written statements will be made part of the record.

The next witness, Ms. Avner.

[The prepared statement of Donna R. Lenhoff follows:]

TESTIMONY OF
DONNA R. LENHOFF
ON BEHALF OF
THE WOMEN'S LEGAL DEFENSE FUND

Chairman Dole and members of the Senate Committee on Finance, I appreciate the opportunity to testify before you today on the child support provisions of the Economic Equity Act on behalf of the Women's Legal Defense Fund. WLDF is a tax-exempt, not-for-profit membership organization based in Washington, D.C. and founded in 1971 to challenge sex-based discrimination and to promote attention to women's concerns in the legal system.

Each year the Women's Legal Defense Fund receives and answers over 4,000 telephone calls from women in the Washington, D.C. metropolitan area with questions about domestic relations matters. A great many of those calls are from women who are experiencing difficulty in obtaining adequate support for their children. The Fund provides pro bono legal representation to women with precedent-setting cases. WLDF has worked extensively with battered women through a shelter program and through paralegal advocacy; many of these women experience support problems as a critical barrier in setting up new safe households. In addition, WLDF volunteers have worked with local courts and organizations on child support issues.

The Child Support Problem

Our work in this field has convinced us that child support is an issue vital to the economic and social well-being of women and their children. We hear daily from women whose standard of living has suffered a dramatic decrease as a result of marital breakup; who feel unable adequately to support their children alone; who are dismayed that the meager amounts they were awarded by the courts are not paid; who are unable to afford an attorney to collect support for them; and who have lost faith in the ability of the legal system to help them obtain what they and their children are due and need so greatly. We hear, too, about the rent that is unpaid, the imminent move to less expensive housing and the second job the mother has had to take, leaving her children unsupervised longer hours at home because child support is inadequate.

On a national level these individuals' stories make a composite picture showing inadequate child support to be a major economic and social problem for the well-being of women and children.

A study conducted by the Bureau of the Census in 1976[1] found that there were 18.3 million people in the United States living in families which included a divorced, separated, remarried or never married woman. The poverty rate for these persons was 27 percent in comparison with 8 percent nationally for all persons in families. For people in these families, mostly women and children, receipt of any child support was a significant factor in determining their economic well-being. Of the 18.3 million people, only 13 percent of those in families with child support were poor, compared to 32 percent of those families without child support.[2]

Support of Children Actually Falls on the Person With Whom They Live

Whatever our stated policy may be, we as a society have made a *de facto* decision that the support of children should be borne by the person with whom the child is living, usually the mother. In fact, research data have repeatedly suggested that 60 to 80 percent of children eligible for child support receive none.[3] The Bureau of the Census study cited before found that only one-fourth of the 4.9 million divorced, separated, remarried or never married mothers actually received any child support payments at all.[4]

Even for those families who do receive some child support, it generally is not the major source of support for the children.[5] The Census Bureau study found that 60 percent of the families in which some support was paid received less than $1,500 altogether for the year,[6] which is less than half of the annual cost of raising a single child at a moderate cost level according the U.S. Department of Agriculture statistics. Of course, the payment was often for more than one child.

Child support payments constitute an insignificant part of their income even for those women who do receive payments. For approximately half the women receiving support, payments were less than 10 percent of total family income. Only 5 percent obtained more than half their family income from child support.[7] In addition, since women earn so much less than men, the children's standard of living is far less than it would be were they receiving substantial and fair support from their fathers as well as their mothers.

Social/Psychological Impact of Inadequate Child Support

The impact of the lack of child support is not economic alone. There is also a serious psychological and social impact on women and children. There is growing evidence to suggest that children from broken homes are no more likely to suffer adverse social consequences such as criminal behavior or academic failure than their friends from intact homes so long as the divorce or separation does not effect the economic status.[8] This, of course, is infrequently the case.

In fact, a pioneering study by Drs. Judith Wallerstein and Joan Kelly of sixty divorcing families found that the sharp decline in the mother's standard of living led to a series of very dramatic consequences for her children.[9] Mothers who were under extreme pressure to earn money worked longer hours at work and at home and had less time for their children; other family members did not make up the time. Lower income also meant a move to a new home for nearly all of the children with the consequent disruption of neighborhoods, friends and schools. Many of the children were moved three or more times within five years. The researchers also found that when there was a great disparity between the incomes of the father's and the mother's households the children experienced a pervasive sense of deprivation and anger.

Fathers Are Able to Pay More

It should not be concluded that fathers are unable to pay more support than they do:

> A Colorado study found that two-thirds of fathers were ordered to pay less per month for child support then they paid for their car payments. 10
>
> A California study found that following divorce, men experienced a 42% increase in their standard of living while women experienced a 73% loss. 11
>
> A Cleveland, Ohio study found that most ex-husbands retain 80 percent of their former personal income after divorce, even after all alimony and child support were paid. 12
>
> Another California study of divorces of couples who had been married eighteen or more years found that the ex-husband and his new household had more than double the disposable income per person than did the ex-wife and her household, even assuming all support payments were made and taking into account the ex-husband's new dependents. 13

Major Problem Areas

Our experience suggests that three principal problems explain the alarming national statistics on the unjust economic suffereing of women and children living in mother-only households, on the functional level. Legislation can address each of these problems.

> First, many mothers are never awarded a child support order by the courts.

> Second, when court support orders are issued, they are frequently woefully inadequate and they do not keep up with inflation.
>
> Third, most mothers with child support orders are unable to enforce them.

The Economic Equity Act

The child support provisions of the Economic Equity Act address each of these three major problem areas and require states to take specific steps to address each. While WLDF has problems and disagreements with some of the specific provisions, which will be discussed later, we support the basic thrust of the child support provisions.

a. The problem of no support award

One of the major problems the Act addresses is the problem of the complete lack of a support award. This problem is particularly acute for women who do not receive AFDC benefits but are unable to afford an attorney to establish or collect child support payments and for women with out-of-wedlock children who must prove paternity before their children are eligible for support.

Support awards for non-AFDC recipients

The child support collection problems of women who do not receive AFDC benefits is of particular concern. Although Title IV-D has required services to non-AFDC recipients since its original passage in 1974, this obligation has been woefully unmet and unenforced. Although collecting support for non-AFDC recipients has the potential for keeping many families from requiring public assistance and serves other important purposes, the emphasis of the program has been on collecting benefits for AFDC recipients where cost-savings to the states are greatest and easier to measure.

For example, a federal court recently found that under the North Carolina Child Support Enforcement Plan, non-welfare cases have been excluded from legal services provided to welfare recipients. In addition, local child support enforcement offices have denied all services to non-welfare families by refusing to take applications from them; where applications were taken, local offices failed to process non-welfare as effectively as welfare cases.[14]

The problem of representation in these cases has grown particularly acute because the cutback in funding for the Legal Services Corporation has resulted in drastic decreases in the legal representation previously available for poor women in all domestic relations cases.

For all of these reasons, WLDF welcomes the emphasis in the proposed legislation on assuring "compliance with obligations to pay child support to each child in the United States." (Section 501(a)(a).) To the extent these and other hearings can reiterate Congress' intent that all children and not only those receiving AFDC payments be served by the program, it should be helpful in encouraging the Office of Child Support Enforcement to enforce this aspect of the program and to drop efforts to have state programs emphasize AFDC collection efforts over non-AFDC efforts.

We recommend revising Section 501(a) to omit the phrase "living with one parent" as children living with someone other than a parent also may need and be entitled to child support payments.

Establishing paternity for children born out-of-wedlock

One major barrier to establishing support obligations for children born out-of-wedlock is the difficulty of proving paternity. New and very sophisticated blood tests are highly reliable in proving paternity. In many states, however, rules of evidence are still based on older and far less reliable blood tests and therefore exclude their use to prove paternity, although they can be used to disprove it. Similarly, fathers may sometimes refuse to cooperate in blood test efforts. The thrust of the EEA provisions (Sections 504(a)(3)(25)(B) and (25)(D)) is to require states to allow use of highly reliable blood tests to prove paternity and to provide for a default paternity proceeding if the father refuses to cooperate.

We support the thrust of both provisions but suggest that the language be changed to require specifically that states make the results of these tests admissible in evidence to prove paternity. A second provision might require states to allow proof of refusal to cooperate in blood testing to be an admission of paternity or to be affirmative proof of paternity.

In addition, a number of states still have statutes of limitation on the filing of paternity actions. Because establishment of paternity is a prerequisite to entitlement to support, many nonmarital children are effectively denied the possibility of support by these statutes. The Supreme Court has ruled both one and two year statutes of limitations unconstitutional in the cases of Mills v. Habluetzel[15] and Pickett v. Brown,[16] and indeed, these rulings cast doubt on the constitutionality of any statutes of limitations (shorter than those applicable to legitimate children). For that reason, this legislation should require all states to eliminate unconstitutional statutes of limitation in paternity cases.

b. The problem of ineffective enforcement of support awards

We will, for the moment, move ahead to enforcement provisions of the EEA and return to questions of inadequate awards last.

A number of states, many of them encouraged by the IV-D program, have developed effective methods for collecting child support payments once they are awarded. The federal Office of Child Support Enforcement also should be commended for its efforts to improve support enforcement efforts. These mechanisms have included provisions requiring mandatory wage withholding to meet child support arrearages; voluntary wage assignment provisions; central state registries to keep track of whether child support payments are made and to allow prompt and automatic enforcement action; use of enforcement mechanisms such as liens or bonds to provide security for payment of past due support amounts; collection of past due support from state income tax refunds; use of administrative or quasi-judicial mechanisms such as administrative hearings or court magistrates or referees for support enforcement.

The Economic Equity Act requires all states to adopt these good practices and we support these provisions of the Act. We also support the concept of automatic, prospective wage withholding, assuming that due process and privacy concerns can be met, although we do not believe a distinction should be made between federal and all other employees. Automatic collection of payments through such mechanisms as wage withholding and very prompt enforcement action are more successful than efforts long after large arrearages have accumulated.

We would make several minor modifications to tighten this portion of the Act. First, the provision requiring establishment of a child support clearinghouse in each state (Section 503) requires that records of payments be maintained and arrearages reported to the court and agency, as well as that each state establish a mechanism to ensure that enforcement action be automatically taken. We fear that the language of the bill does not clearly implement Congress' intent, and profitably could be rewritten to clarify that each state must ensure that enforcement action is automatically taken when arrearages accumulate, unless the recipient specifically declines such assistance. The provisions regarding wage withholding

(Section 504(3)(21)) and wage assignment (Section 504(3)(25)(A)) should be amended to make clear that states must require employer cooperation. The mandatory wage withholding provision should apply not only to wages but also to other forms of compensation such as commissions or bonuses. Finally, the Federal Wage Garnishment Act should be amended to provide that employees may not be fired as a result of a garnishment for child support purposes and that employees should be "allowed" one other garnishment in addition. That law now provides protection against being fired because of a single wage garnishment.

c. Support awards in inadequate amounts

Support amounts awarded by courts are generally low in comparison to the actual cost of raising a child -- typically they do not even cover half the cost. The amount of child support ordered to be paid is generally modest in comparison with the father's ability to pay. The major burden of child support, therefore, falls on the mother who generally has the least ability to support the children from her earnings.[17]

In addition, support amounts are not easily predictable based on the facts of a case. Similar cases are not treated similarly. Several studies have found wide variations in awards by different judges within one locale and from case-to-case in decisions by a single judge.[18]

I am sure it was for these reasons that the drafters of this bill chose to require states to establish "an objective standard to guide in the establishment...of support obligations" "such that comparable amounts of support are awarded in similar situations." However, there are two general approaches to support guidelines. The proposed statute, by using the language "by measuring the amount of support needed and the ability of an absent parent to pay such support," chooses one of the two major approaches to support guidelines. Unfortunately, it is the less desirable of the two and is likely to result in unfairly low support awards. For that reason, we cannot support this provision of the Act.

The two major approaches are the "cost-sharing" approach, which is embodied in the language of this provision, and the "resource sharing" approach, which we believe is a much fairer approach to child support guidelines. Professor Judith Cassetty has described the two approaches:

> The cost-sharing approach begins with the assumption that there are rather fixed and measurable costs associated with raising a child and that once known, they can be apportioned in some way between a child's parents. A major problem with this approach is that the cost of a child is largely a function of the resources available to the parents. Thus, the cost of a child in a poor household is different from the cost of a child in a moderate - or high income family...(T)he application of child support standards based on the cost-sharing approach can lead to serious inequities. If children reside with their mother whose earning power is limited, for instance, their standard

> of living may be quite low, and the cost-sharing approacn to setting child support may lead to a relatively meager contribution from the father, though his earnings may be substantial...
>
> The resource sharing approach, on the other hand, is based on the belief that children should benefit proportionately from the resources of each parent. In other words, children would not suffer a decline in their standard of living in the event of divorce. 19

Or as other economists have described it, when the former standard of living cannot be maintained in both households post-divorce, the standard should be "equal suffering" with both new households at an equal but lower standard of living based on the new composition of the two new households.[20]

We would agree to the EEA requiring states to establish guidelines that embodied thc latter approach. Barring that, however, we suggest that this provision be dropped from the bill altogether, substituting instead a requirement that OCSE conduct a study of support guidelines, including a study of the effect on the child's standard of living of different guidelines, and further conduct a study to gather sufficient data to allow adequate guidelines to be constructed. For example, data that are now used in determining the cost of raising a child or in comparing the standard of living of households of various composition were based on information gathered about two-parent households, and may not accurately reflect expenses such as day care costs which are often greater in single parent-households.[21]

We also are simply concerned that there are many guidelines now in existence which do not represent a fair approach to the determination of child support amounts. We are reluctant to see poor practice embodied in state law because of pressure from the federal government and before there has been full public discussion and debate over the correct policy to be embodied in guidelines. Professor Weitzman found that most Los Angeles support awards were lower than the guidelines in use; judges apparently considered them a ceiling on support rather than an average.[22] Eden found that support guidelines in Alameda County, California represented amounts far below an amount needed to apportion the diminished family earnings equitably between two new households.[23] Proposals have been made which would require looking to AFDC or foster care payment levels to determine a basic level of need to be apportioned between the parents; obviously this would result in far lower awards in higher income households.[24]

Similarly, we would eliminate any requirement that an administrative mechanism be used for the establishment of support levels or for modification of support. Particularly without adequate guidelines this is an inappropriate approach. Too often women's cases are relegated to a less careful decision-making process than all other cases.

Even with good support guidelines, questions would remain to be litigated in individual cases. There will always be exceptional medical or school expenses for a child or a parent, heavy financial obligations which reduce the available resources for child support, or failure of a spouse to seek and obtain employment consistent with his or her ability and family needs. These are proper issues for judicial resolution in setting proper support amounts. Requiring parties to go through an administrative process before being allowed access to the judicial process may well result in extra delays and litigation expenses before arriving at a fair result which is not the effect this Committee should desire.

One extremely positive amendment which could be made to this legislation would be to require that states allow or require judges to include annual cost of living increases in child support awards. At present child support awards are constantly eroded by inflation. Mothers must return to court to seek increases in support and, because of the expenses involved, are able to do so infrequently. Legal standards for a changed award also may make it difficult to obtain an increase. Many IV-D offices will not seek increases on the basis of inflation alone. With the change proposed, the assumption would be that annual increases would help child support awards keep up with inflation. Such an increase could be modified if changes in the parents' income made such an automatic adjustment unfair.

We believe it is appropriate for a court to award coverage of medical expenses in addition to monthly child support payments. However, we believe Section 504(a)(3)(20) should be amended to require states to grant such authority rather than requiring that such support be sought in every case. Some mothers would have their own health insurance and may prefer increased monthly payments from the child's father instead.

In a related vein, we support the idea of allowing extended Medicaid benefits for several months for families who are able to leave the AFDC rolls because of child support collections.

d. Alimony

Finally, we believe that all aspects of the Title IV-D collection program should apply to alimony as well as child support. At present the IV-D program will pay for the federal share of costs of enforcing support obligations owed by absent parents to their children and one spouse (or former spouse) with whom such children are living. 42 U.S.C.A. §651 (Supp. 1983). But states are not required to collect alimony. We favor requiring states to collect alimony as well as child support for several reasons:

> The mechanisms for establishment and collection of alimony are the same as those for child support. In many, if not most, cases the two can be combined in a single legal action with little additional effort or expense.
>
> Support for children is often combined with support for a former wife, and the whole amount is labelled alimony in order to obtain tax savings. 25 It is unfair not to require enforce-

> ment of such arrangements once entered into and it is unfair not to make use of this tax advantage in establishing support because a state chooses not to seek alimony.
>
> The small number of cases in which alimony is awarded when there are no minor children generally involve displaced homemakers who have spent a lifetime raising a family and lack job skills or disabled former wives. Both groups are deserving of public aid in collecting their support payments.

For these reasons we ask that the mandatory provisions of the Act be extended to cover alimony as well.

Thank you.

FOOTNOTES

1/U.S. Department of Commerce, Bureau of the Census, Current Population Reports: Divorce, Child Custody and Child Support, Special Studies Series P-23, No. 84 (1979) (referred to as Census Bureau Study).

2/*Id*. at 4.

3/Cassetty, J., *The Parental Child Support Obligation*, 3, 35, 79, 263 (1983); Urban Institute, "Child Support Payments in the United States," working paper 992-03, 90-109 (1976); Cassetty, J., *Child Support and Public Policy*, 46-61 (1978).

4/Census Bureau Study, *supra* note 1, at 3. The figure does not include payments for support of children that may have been made in the form of alimony payments - often for tax reasons.

5/See references cited in note 3, *supra*, and Census Bureau Study, *supra* note 1 at 3.

6/Census Bureau Study, *supra* note 1, at 3.

7/*Id*. at 3.

8/Ross, H. and Sawhill, I., *Time of Transition: The Growth of Families Headed by Women*, 133-153 (1975).

9/J. Wallerstein and J. Kelly, *Surviving the Breakup*, 23-25, 183, 231 (1980).

10/Yee, L., "What Really Happens in Child Support Cases: An Empirical Study of Establishment and Enforcement of Child Support Orders in the Denver District Court", 57 Denver L.J., 21, 50 (1979).

11/Weitzman, L., "The Economics of Divorce: Social and Economic Consequences of Property, Alimony and Child Support Awards," 28 U.C.L.A. L. Rev., 1181, 1251 (1981).

12/Sternin, G. and Davis, J., *Divorce Awards and Outcomes: A Study of Pattern and Change in Cuijahoga County, Ohio 1965-1978*, 8 (1981).

13/Weitzman, L. and Dixon, R., "The Alimony Myth: Does No-Fault Divorce Make a Difference?," 14 Fam. L. Q. 141, 174-5 (1980).

[14] *Carter v. Marrow*, _____ F.Supp. _____, 9 Family Law Reporter 2418 (D.N.C. 1983).

[15] 456 U.S. 91 (1982).

[16] _____ U.S. _____, 9 Family Law Reporter 3041 (1983).

[17] Weitzman, L., *supra* note 11, at 1233-411.

[18] Yee, L., *supra* note 10; White, K. and Stone, R., "A Study of Alimony and Child Support Rulings With Some Recommendations," 10 Fam. L.Q. 75 (1976).

[19] Cassetty, J., *The Parental Child Support Obligation*, 5 (1983).

[20] See Eden, P., A Model Schedule of Temporary Child and Spousal Support; Eden, P., Estimating Child and Spousal Support (1977); Eden, P., "Forensic Economics, The Use of Economists in Cases of Dissolution of Marriage," 18 Am. Jur. Proof of Facts 2 (1978); Sawhill, D., "Developing Normative Standards for Child Support Paments," in Cassetty, J., *The Parental Child Support Obligation*, 79, 80-81 (1983).

[21] Cf. Brunch, C., Developing Normative Standards for Child Support Payments: A Critique of Current Practice, in Cassetty, J., *The Parental Child Support Obligation*, 121-22 (1983).

[22] Weitzman, *supra* note 11, at 1234-35.

[23] Eden, P., A Model Schedule of Child and Spousal Support.

[24] Legislation introduced in the District of Columbia in the Spring of 1982 proposed support at the AFDC level. Mayrick Franks in "How to Calculate Child Support," Case and Comment 5 (January February 1981) suggests as one figure to look at in determining a child's needs the foster care payment level.

[25] This practice was approved in *Commissioner v. Lester*, 366 U.S. 299 (1960).

STATEMENT OF JUDITH I. AVNER, STAFF ATTORNEY, NOW LEGAL DEFENSE AND EDUCATION FUND, WASHINGTON, D.C.

Ms. AVNER. Good morning. I am pleased to appear before you on behalf of the NOW Legal Defense and Education Fund to share with you our views about the need for pension reform. The NOW Legal Defense and Education Fund is a nonprofit tax-exempt civil rights organization dedicated to challenging sex discrimination and securing equal rights for women and men. Formed in 1970 by leaders of the National Organization for Women—a national membership organization of more than 200,000 women and men in over 725 chapters throughout the country—the LDEF provides educational and litigating resources for women, and has long been concerned with the rapidly deteriorating economic plight of this country's elderly. In this regard, Mr. Chairman and members of the committee, we applaud your sensitivity to the unique economic problems faced by women and we gladly assist you in your inquiry.

Although I will focus this morning on the pension reform provisions of the Economic Equity Act and the Retirement Equity Act, we support your efforts to eliminate discrimination against women in other areas and we would be glad to submit written testimony on the other provisions of the Economic Equity Act.

We come before you today mindful that the feminization of poverty has become one of the most compelling social facts of our era. For older women in particular, the feminization of poverty is a harsh reality. Single women comprise almost three-fourths of our Nation's elderly who are living in poverty. One out of every three single women over the age of 65 has an income below the poverty line. And recent statistics demonstrate that poverty among older women is actually increasing, not decreasing.

Pension benefits, of course, are a major source of income for older retired Americans, without which an adequate standard of living would be virtually impossible to maintain. But women, whether working as homemakers or in the paid labor force, have rarely been afforded pension coverage. Instead, women have historically been forced to rely on their husband's retirement benefits in order to avoid poverty later in life.

These bills recognize the reality of many of today's marriages as an economic partnership to which each spouse makes contributions and thus the pension benefit is property considered to be property of the marital unit owned by the family rather than by an individual spouse.

The President's Commission on Pension Policy has noted that the plight of many women in old age can be traced directly to failures in employee pension systems. Homemakers who have no access to pension coverage on their own are especially vulnerable to future economic insecurity, particularly if their marriage has ended in divorce. Since work done within the home has never been viewed as real work, pension coverage has been unavailable to homemakers in their own right. Thus, their long-range economic security is inextricably intertwined with that of their wage-earning husbands, making them dependent on benefits earned in their husband's name. When her marriage ends and the homemaker wife is suddenly deprived of the security of the pension asset, she often finds herself in an extremely precarious financial situation, exacerbated by the fact that she is unlikely to be awarded or if awarded, to receive alimony.

Although full-time homemakers are most clearly disadvantaged by current pension systems, women in the paid labor force face comparable pension inequities. These inequities derive from the concentration of most women in a small number of occupations, all characterized by low pay and limited advancement opportunities, and which generally fail to provide any retirement coverage, or provide coverage which is wholly inadequate for the retirement needs of most women.

In addition, women in the paid work force face further discrimination due to their unique childbearing responsibilities, which lead many women to take time out from paid employment.

As a direct result of pervasive job segregation and the failure of our current pension systems to take appropriate account of women's childbearing and rearing responsibilities, women are about half as likely as men to be employed in positions covered by private pension plans, and even when fortunate enough to be covered, women receive benefits that are only about half the level of benefits received by male retirees. Thus the discrimination women face in the paid labor force is perpetuated in retirement, and contributes to the often desperate financial situation of many of our elderly female citizens.

Past congressional hearings which led directly to the passage of ERISA reflect congressional recognition of the importance of pension benefits to the future security of our citizens. While ERISA did indeed remedy many past abuses, it failed to take appropriate account of the particular problems of women, and so we particularly applaud this committee's effort today to fill the gap.

The written testimony addresses many provisions of the two bills. I just want to highlight one, section 5(a) of S. 19 and 104(a) of S. 888, which make clear that ERISA's antialienation and assignment clauses do not prevent assignment of pension benefits when related to family obligations of alimony, support, and property settlements. We feel these provisions are critically important.

Congress originally enacted these provisions in ERISA to protect individuals from their own improvidence, and to insure the employee's accrued benefits are actually available for retirement purposes. ERISA thereby assured some modicum of financial security for employees and their families in retirement. However, there has been much confusion in the courts about whether these provisions of ERISA can shield pension benefits from other members of the family when a marriage dissolves. In view of the central role that pension benefits play in a family's financial status, courts have had little trouble implying an exception to ERISA for satisfaction of family responsibilities. Although most courts have implied this exception, only legislative clarification will completely eliminate the unnecessary confusion and discourage further litigation.

Amendment of ERISA to permit a pension plan to pay directly to the nonemployee spouse her share of the pension benefits is likewise essential. In view of the dismally low rate of compliance with family support orders, only direct payment by the plan will fully assure receipt of these benefits. Further, in so clarifying the statute, plan administrators will know that they will not be risking a plan's tax-exempt status by paying benefits to nonemployees.

In addition, for a variety of personal, religious or financial reasons, many people choose to settle their marital discord by arrangements that fall short of the total severance effectuated by a divorce decree, or choose not to include all the details of their allocation of responsibilities and property in the divorce decree. As now written, the exception to the antialienation clause contained in the proposed legislation might not include division of the pension asset made in a legal separation or separation agreement. Failure of legislative reform to encompass the range of separation options will impose serious economic hardship on many separated women and their children who may be otherwise unable to receive a deserved share of the pension benefits.

And finally, section 105 of the Economic Equity Act explicitly states that assignment of pension benefits in divorce proceedings is not preempted by ERISA, thereby amending the general preemption provision of ERISA. Although provisions of the bills discussed above accomplish this through direct amendments of the antialienation and assignment provisions of ERISA, we support incorporating this clarification in the general preemption section as well, thereby removing any doubt that ERISA does not supersede State domestic relations laws.

Government studies, judicial decisions, and our own telephone calls have unveiled a multitude of problems women face because of the low availability and benefits of pension coverage and the failure of our society to recognize the economic as well as social value of homemaker work. This Nation cannot allow these inequities to continue. We welcome this committee's concern for the economic hardships older women face, and we look forward to working with you in these efforts. Thank you.

Senator DURENBERGER. Thank you very much.

Dr. Mendelson.

[The prepared statement of Ms. Avner follows:]

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TESTIMONY OF THE
NOW LEGAL DEFENSE AND EDUCATION FUND
before the
SENATE FINANCE COMMITTEE
on the
RETIREMENT EQUITY ACT OF 1983 (S.19)
and the
ECONOMIC EQUITY ACT OF 1983 (S.888)

June 21, 1983

Good morning. My name is Judith Avner. I am pleased to appear before you this morning on behalf of the NOW Legal Defense and Education Fund to share with you our views about the need for pension reform. The NOW Legal Defense and Education Fund is a non-profit tax exempt civil rights organization dedicated to challenging sex discrimination and securing equal rights for men and women. Formed in 1970 by leaders of the National Organization for Women — a national membership organization of more than 200,000 women and men in over 725 chapters throughout the country — the LDEF provides educational and litigating resources for women, and has long been concerned with the rapidly deteriorating economic plight of this country's elderly. In this regard, Senator Dole and members of the committee, we applaud your sensitivity to the unique economic problems faced by older women. We gladly assist you in your inquiry, and support your commitment to remedying the current inequities in this nation's pension systems —

inequities which rob so many elderly Americans of economic security, and condemn them to an old age filled with anxiety and despair.

We come before you today mindful that the "feminization of poverty has become one of the most compelling social facts" 1/ of our era. For older women, in particular, the feminization of poverty is a harsh reality. Single women (those who never married or are now widowed or divorced) comprise almost three-fourths of our nation's elderly who are living in poverty. 2/ One out of every three single women over the age of 65 has an income below the poverty line. 3/ And recent statistics demonstrate that poverty among older women is actually increasing, not decreasing. 4/

Pension benefits, of course, are a major source of income for older retired Americans, without which an adequate standard of living would be virtually impossible to maintain. 5/ But women, whether working as homemakers or in the paid labor force, have rarely been afforded pension coverage. Instead, women have historically been forced to rely on their husband's retirement benefits in order to avoid poverty later in life.

The President's Commission on Pension Policy has noted that "[t]he plight of many women in old age can be traced directly to failures in employee pension systems." 6/ Homemakers who have no access to pension coverage on their own are especially vulnerable to future economic insecurity, particularly if their marriages end in divorce. Since work done within the home has never been viewed as "real work," pension coverage has been unavailable to homemakers in their own right. 7/ Thus, their long range economic security is inextricably intertwined with that of their wage-earning husbands, making them dependent on benefits earned in their husband's name. When her marriage ends and the homemaker wife is suddenly deprived of the security of the pension asset, she may find herself in an extremely precarious financial situation, exacerbated by the fact that very few divorced and separated women receive any alimony. Only 14% of divorced and separated women in 1979 were awarded or had an agreement to receive alimony or maintenance payments. Of that small percentage of women, almost one-third received no payments from their ex-husbands, while the average annual payment for those who did receive alimony was only $2,850. [8]

Although full-time homemakers are most clearly disadvantaged by current pension systems, women in the paid labor force face comparable pension inequities. These inequities derive from the concentration of most women in a very small number of occupations, all characterized by low pay and limited advancement opportunities, [9] and which generally fail to provide any retirement coverage, or provide coverage which is wholly inadequate to the retirement needs of most women. [10]

In addition, women in the paid workforce face further discrimination due to their unique childbearing responsibilities, which lead many women to take time out from paid employment. [11] Since most pension plans contain stringent requirements that workers be employed by the same employer for a long period of time before they obtain vested rights to pension benefits, women who interrupt their participation in the paid labor force to take care of their families forfeit contributions they have made and find themselves ineligible for any future benefits. Even if these women remain in the workforce part-time, they will find their efforts likewise unrewarded. [12] Although federal law provides tax incentives to pension plans that cover employees who work at least 1,000 hours annually, 29 U.S.C. §1052(a)(3)(A) (1976), many of the women in part-time employment still find themselves excluded by this minimum requirement.

As a direct result of pervasive job segregation and the failure of our current pension system to take appropriate account of women's child-bearing and rearing responsibilities, women are thus half as likely as men to be employed in positions covered by private pension plans. [13/] And, even when women are fortunate enough to be covered, they receive benefits that are only about half the level of benefits received by male retirees. [14/] In one study, the median benefit for entitled women was $970 annually as compared with $2,080 for men. Thus the discrimination women face in the paid labor force is perpetuated in retirement, and contributes to the often desperate financial situation of many of our elderly female citizens.

The importance of pensions to the future security of our citizens and the pervasive problems with many private pension plans has of course already been recognized by Congress. Past hearings held by this body led directly to the passage of the Employment Retirement Income Security Act (ERISA), in accordance with Congressional findings that "the continued well being and security of millions of employees and their dependents are directly affected by these [retirement] plans." [15/] But while ERISA did indeed remedy many past abuses, it failed to take appropriate account of the particular problems of women. We applaud this Committee's effort to fill this gap and are pleased to join you in this endeavor.

We will now address our remarks to some of the specific provisions that have been proposed in S.19 (the Retirement Equity Act) and S.888 (the Economic Equity Act).[*]

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[*] It should be noted that social security benefits have become a major part of the economic picture for older people. For more than 60% of elderly women, social security is their sole source of income. At this time, we will not address the complexities of the social security system, since it is beyond the scope of these hearings and has itself failed to solve the problem of poverty among the nation's elderly women.

° Age Requirements for Participation and Vesting: S.19, §2; S.888, §106

Under current law, pension plans may exclude employees from participation until they reach the age of 25. This policy particularly penalizes female employees. The highest labor force participation for women, 67.8%, occurs between the ages of 20-24.[16/] And, since many women take time off for child bearing and rearing, it is critical that they be afforded the opportunity to participate in pension plans as early as possible. Section 2 of S.19 and Section 106 of S.888 lower the age limitation for minimum participation from 25 years of age to 21 years. We enthusiastically support these amendments as a way of increasing women's participation in pension plans.

In addition to age requirements for participation, ERISA further provides that employees must credit employment for vesting purposes, beginning at age 22. Thus, an employee who works on a job from age 22 to 32 will have met the ten year minimum requirement for vesting. But, the amount of accrued benefit will only be for seven years of employment, from age 25 to 32. S.888 lowers the vesting age from 22 to 21 years of age, thereby conforming the vesting age with the age of participation. We recommend that S.19 include a comparable provision.

° Interruption in Service: S.19, §3; S.888, §108

Section 3 of S.19 and Section 108 of S.888 propose different remedies for an extremely serious problem: the present forfeiture of benefits many women face when they interrupt their participation in the paid labor force for childbirth or childcare. The need for reform in this area is undisputed. The United States Department of Labor concluded in a 1980 report on Women and Private Pension Plans that:

> . . . seldom is it mentioned how much in earned pension benefits women are forced to forfeit because of carrying out the traditional role of child rearing. Women are subsidizing pension plans in ways that are just not considered. 17/

Section 3 of S.19 proposes a very modest answer to the problem. As written, Section 3 would allow up to 501 hours of service to be credited, solely for vesting purposes, to an individual who is absent from work for any consecutive period either to give birth or to take care of the infant during the period immediately following such birth. Certainly this is an improvement over the status quo; however, it nevertheless falls short of its underlying objective. Calculated on the basis of a 40 hour work week, section 3 would actually allow less than 13 weeks of leave for giving birth and infant care. Moreover, S.19 does not address the more difficult problem of remedying the loss in benefits women suffer when they interrupt their paid employment to provide child care.

The Economic Equity Act takes a different approach. Section 108 of S.888 is a more extensive provision which requires retirement plans to consider an employee to have performed twenty hours of service a week for up to fifty-two weeks for the purpose of giving birth or caring for a child if the leave was approved by the employer. This provision is more expansive than its comparable porvision in S.19 in two important ways. First, it requires the employer affirmatively to continue pension benefit accruals for twenty hours a week of service for a maximum of one year, rather than simply not penalizing the parent for a more abbreviated break in service as provided in S.19. Second, it allows that time to be used for general child care as opposed to only care of the newborn. We support the idea of affirmative credit for the parental leave, but we have some concern that such a credit might be interpreted by employers as a disincentive to allow such leave.

Finally, neither bill expressly provides that the amount of time off credited must be credited for each newborn. Obviously, many parents do have more than one child, and they should be entitled to the same work credits for each child. We suggest that this point be clarified in these sections.

° Spousal Consent: S.19, §4; S. 888, §103

Because many employees opt out of survivor's benefits, in order to maximize their pension payments during their lifetime, it is not unusual for many widows to find themselves without adequate pension protection upon the death of their husbands. The NOW LDEF has itself received numerous phone calls from widows who, to their surprise, find they have no survivor's annuity, after having been told by their husbands that they would be "taken care of."

The spousal consent provisions in Section 4 of S.19 and Section 103 of S.888 offer important protections to help minimize this problem. In 1978, more than 60% of retirees elected to waive the joint and survivor annuity. 18/ Requiring spousal consent to a waiver will serve to inform the participant's spouse, promote joint and serious consideration of the future economic security of the surviving spouse, and most likely decrease the number of retirees opting out, thereby affording widows better protection.

Further, Section 103 of S.888 addresses a very important problem not addressed in S.19: payment of survivor annuities to the spouse of a worker who was fully vested even if the participant died before the annuity starting date. Presently, ERISA provides that an employee-participant who is vested and satisfies the pension plan's length of service requirement may not receive the vested benefits until he or she reaches the normal retirement age contained in the plan. Thus, many spouses are deprived of their survivor benefits if their spouse dies short of retirement age, a terrible hardship for widows who have relied on receiving survivor annuities.

The need for legislation on this issue becomes more compelling by observing the courts' unsympathetic treatment of this problem. For example, in 1981 the federal Court of Appeals for Nevada denied a widow survivor benefits even though her husband was 100% vested, had elected the joint and survivor option and had died just three months short of attaining the plan's retirement age of 62. 19/ Similarly, the Court of Appeals here in the District of Columbia denied survivor benefits to a widow whose husband had worked for twenty-three years at the same job because he had died before the annuity starting date. 20/ Clearly, the only way to remedy these severe injustices is through legislative action.

- Assignment or Alienation of Benefits: S.19 §5(a); S.888 §104(a)

Section 5(a) of S.19 and Section 104(a) of S.888, which make clear that ERISA's anti-alienation and anti-assignment clauses do not prevent assignment of pension benefits when related to family obligations of alimony, child support and property settlements, are critically important.

Congress originally enacted ERISA's anti-alienation and assignment provision (21 U.S.C. §1056(d)(1)) to protect individuals from their own improvidence, and to "ensure that the employee's accrued benefits are actually available for retirement purposes . . ." 21/ ERISA thereby assured some modicum of financial security for employees and their families in retirement. 22/ However, there has been much confusion in the courts about whether these provisions of ERISA can shield pension benefits from other members of the family when a marriage dissolves. In view of the central role pension benefits play in a family's financial status, courts have had little trouble implying an exception to ERISA for satisfaction of family responsibilities. Indeed, as one court said:

> It would be ironic . . . if a provision designed in part to ensure that an employee spouse would be able to meet his obligations to family after retirement were interpreted to permit him to evade them with impunity after divorce. Construing §206(d)(1) to prevent a nonemployee spouse from enforcing marital property obligations against an employee benefit plan covered by ERISA would frustrate rather than further the policies of that provision. 23/

Although most courts have implied this exception to the anti-assignment and alienation clauses, only legislative clarification will completely eliminate the unnecessary confusion and discourage further litigation. Thus, it is critical for ERISA to be explicit on this point.

Amendment of ERISA to permit a pension plan to pay directly to the non-employee spouse her share of the pension benefits is likewise essential. In view of the dismally low rate of compliance with family support orders, only direct payment by the plan will fully assure receipt of these benefits. Further, in so clarifying the statute, plan administrators will know that they will not be risking the plan's tax-exempt status by paying benefits to non-employees.

In addition, for a variety of personal, religious or financial reasons, many people choose to settle their marital discord by arrangements that fall short of the total severance effectuated by a divorce decree, or choose not to include all the details of their allocation of responsibilities and property in the divorce decree. As now written, the exception to the anti-alienation clause contained in the proposed legislation might not include division of the pension asset made in a legal separation or separation agreement. Failure of legislative reform to encompass the range of separation options will impose serious economic hardship on many separated women and their children who may be otherwise unable to receive a deserved share of the pension benefits.

Finally, Section 105 of S.888 explicitly states that assignment of pension benefits in divorce proceedings is not preempted by ERISA. It amends the general preemption provision of ERISA, (29 U.S.C. §1144(a)), by exempting any judgment, decree or order pursuant to a state domestic relations law. Although the provisions of the bills discussed above (S.19 §5(a); S.888 §104) accomplish this through amendments of the anti-alienation and assignment provisions of ERISA, we support incorporating this clarification in the general preemption section, as well, thereby removing any doubt that ERISA does not supercede state domestic relations law.

- Civil Service Pension Reform: S.888 §109

We strongly support Section 109 of the Economic Equity Act which corrects inequities faced by widowed and divorced spouses of Civil Service employees. Presently, upon divorce, wives of Civil Service employees lose any claim to retirement pay, survivor's benefits and health insurance benefits. Section 109 addresses this problem by recognizing a vested right in a spouse married to a Civil Service employee for at least 10 years during periods of civil service to a pro rata share of the annuity earned during the marriage. Thus, section 109 requires the courts to view pensions as property owned by both spouses to be divided at divorce. This conclusion is consistent with the prevailing judicial view of private pension benefits. We also support the provisions of this section which protect widows in a way similar to the private pension section by requiring the spouse of the employee to be notified and agreed in writing to a waiver of the survivor's benefit plan.

Government studies, judicial decisions, and our own phone calls have unveiled the multitude of problems women face because of the low availability and benefits of pension coverage and the failure of our society to recognize the economic as well as social value of homemaker work. This nation cannot allow these inequities to continue. We welcome this committee's concern for the economic hardships older women face, and we look forward to working with you in these efforts.

Thank you.*

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* The NOW Legal Defense and Education Fund wishes to acknowledge the assistance of Ellen Relkin in the preparation of this testimony.

NOTES

1. *Critical Choices for the 80's*, August 1980, p. 1.

2. U.S. Department of HEW, *Social Security and the Changing Roles of Men and Women*, (Feb. 1979) (hereinafter *Changing Roles*). App. C. p. 168.

3. *Ibid*. pp. 167-70.

4. U.S. Department of Labor, Bureau of Census, *Money, Income and Poverty Status of Families and Persons in the United States: 1979*, Oct. 1980.

5. U.S. Department of Labor, *Women and Private Pension Plans* ii (1980).

6. President's Commission on Pension Policy, *Coming of Age: Toward a National Retirement Income Policy* 45 (1981).

7. U.S. Department of Justice, *The Pension Game: The American Pension System from the Viewpoint of the Average Woman* 4-7 (1979).

8. U.S. Commission on Civil Rights, *A Growing Crisis: Disadvantaged Women and their Children* 12 (1983).

9. In 1981, half of the 43,000,000 women in the paid labor force were employed in only 20 occupations -- secretary, bookkeeper, salesclerk,retail worker, cashier, waitress, registered nurse, elementary school teacher, private household worker, typist, nursing aid, sewer and stitcher, cook, receptionist, secondary school teacher, assembler, bank teller, building interior cleaner, hairdresser, cleaner and servant, and childcare worker. Bureau of Labor Statistics, U.S. Dept. of Labor, *Employment and Earnings* (1982).

   There is evidence that the occupational segregation of women is increasing. For example, in 1982, 81% of all clerical workers were women, as compared with 79% in 1978 and 62% in 1950. Bureau of Labor Statistics, U.S. Dept. of Labor, *Employment in Perspective: Working Women* 1 (1978), Bureau of Labor Statistics, *Women at Work: A Chartbook* 1 (1983).

10. Naierman and Brannon, "Sex Discrimination in Insurance," in U.S. Comm'n on Civil Rights, *Consultation on Discrimination Against Minorities and Women in Pensions and Health, Life and Disability Insurance* 473-74 (1978) (hereinafter cited as *Consultation on Discrimination*).

11. U.S. Department of Labor, *Women and Private Pension Plans* 1 (1980). *See also* President's Comm'n on Pension Policy, *Working Papers: Working Women, Marriage, and Retirement* 36 (1980) (hereinafter cited as *Working Women*).

12. *Working Women*, *id*. at 36. Roughly one-third of all employed mothers have part-time positions. Frug, *Securing Job Equity for Women: Labor Market Hostility to Working Mothers*, 59 Boston L. Rev. 55, 57 (1979).

13. President's Comm'n on Pension Policy, *An Interim Report* 7 (1980); *Consultation on Discrimination*, *supra* n. 11 at 473-75.

14. *Working Women*, *supra* n. 19, at 31; Kolodrubetz, "Private Retirement Benefits and Relationship to Earnings," cited in *Consultation on Discrimination*, *supra* n. 11 at 1247. In this study, the median benefit for entitled women was $970 annually as compared with $2,080 for men.

15. Employee Retirement Income Security Act, §2(a), 29 U.S.C. §1001(a) (1974).

16. U.S. Department of Labor, *Perspectives on Working Women: A Databook* 4 (1980).

17. U.S. Department of Labor, *Women and Private Pension Plans* 6 (1980).

18. Congressional Caucus for Women's Issues, *Fact Sheet on the Economic Equity Act* (1983).

19. *Hernandez v. Southern Nevada Culinary and Bartenders Pension Trust*, 662 F.2d 617 (9th Cir. 1981).

20. *Lauck v. International Union*, 655 F.2d 423 (D.C. Cir. 1981).

21. H. Rep. No. 93-807, 93d Cong. 2d Sess. 1974, U.S. Code Cong. and Adm. News pp. 4370, 4374.

22. *Carpenters Pension Trust v. Kronschnabel*, 460 F. Supp. 978 (N.D. Cal. 1978), *aff'd*, 632 F.2d 745 (9th Cir. 1980), *cert. denied*, 453 U.S. 922 (1981).

23. *Stone v. Stone*, 450 F. Supp. 919 (N.D. Cal. 1978), *aff'd*, 632 F.2d 740 (9th Cir. 1980), *cert. denied*, 453 U.S. 922 (1981).

24. *See, e.g.*, *American Telephone and Telegraph Co. v. Merry*, 592 F.2d 118 (2d Cir. 1979); *United Association of Journeymen and Apprentice Plumbers and Pipefitters, Local 198 v. Myers*, 488 F.Supp. 704 (M.D. La. 1980), *aff'd*, 645 F.2d 532 (5th Cir. 1981); *Senco of Florida, Inc. v. Clark*, 473 F.Supp. 902 (D. Fla. 1979); *Knapp v. Johnson*, 301 N.W.2d 548 (Mn. 1980); *Commw. ex rel. Magrini Magrini*, 398 A.2d 179 (Pa. Super. 1979).

STATEMENT BY DR. JOHANNA S. R. MENDELSON, DIRECTOR, PUBLIC POLICY, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, WASHINGTON, D.C.

Dr. MENDELSON. Thank you.

Good morning, Mr. Chairman, Senator Packwood. I am Johanna Mendelson, director of public policy for the American Association of University Women. Our 190,000 college educated members represent the oldest and largest national organization for the educational advancement of women. Thus, it is especially timely for me to appear before this committee to express AAUW's support of legislation directed at remedying some of the most basic inequities in our society—economic inequities which affect women of all ages, as members of the paid work force and as homemakers, as married women, or divorcees or widows, as young women or as part of the growing ranks of elderly women who now comprise over 60 percent of Americans over age 65.

AAUW supports S. 888, the Economic Equity Act of 1983. It is, without a doubt, among the most important pieces of legislation for our organization. We particularly want to thank you, Mr. Durenberger and Mr. Packwood for your leadership on this piece of legislation in the past few years.

We believe the EEA is not a substitute for the equal rights amendment. Rather, the EEA as drafted, begins to implement changes in existing laws which would have needed correction, had the ERA been ratified in 1982. The passage of the ERA, now before this Congress again, will serve to reinforce the types of basic reforms that we seek today through the Economic Equity Act.

The AAUW has taken no official position thus far on S. 19, the Retirement Equity Act. It does, however, recognize that many of its provisions would substantially alleviate specific inequities in current pension laws, such as vesting age, and spousal consent for election of joint and survivor annuity. We applaud the efforts of its author, Mr. Dole, for setting forth some much needed legislation in the pension area.

The pension and retirement provisions of S. 888 embrace many of the recommendations made by earlier studies of pension systems which address special problems women face in the quest for a decent and financially secure retirement.

The President's Commission on Pension Policy Report noted the existence of one pension benefit often was the difference between poverty and nonpoverty in the elderly. Seventy-two percent of the elderly poor are unmarried women, that is single, widowed, separated, or divorced. The feminization of poverty reflects not only the rising number of single heads of households, but also the expansion of the female population among the aging. The poverty rate among the elderly was 15.3 percent in 1981 with older men having a median income of $8,173 as compared to women's which was $4,757 or just 58 percent of men's income.

In 1982 more than 9.7 million American family households—about one in six—or 16 percent of the 61 million families, were maintained by women, and over two-thirds of these families included children under 18 years old. Let's face it. Despite the nostalgia for the family life a la "Leave it to Beaver," few American families will have a Ward Cleaver around to solve all the problems. About 9.4 million American families spent Father's Day without father.

I would like to direct my statement to title I, sections 101 and 102 of the Economic Equity Act, pertaining to the eligibility for individual retirement accounts. These provisions would allow each spouse to have an IRA of $2,000 as long as one spouse was earning at least $2,000 per year. Furthermore, alimony payments would be allowed in computing a person's total income for the purposes of determining their maximum allowable contribution to an IRA. Such provisions amend current law which limits nonwage earning spouses in the amount they can contribute to an IRA.

Increasing the maximum contribution for a nonworking spouse is an important step. It provides yet another incentive for a woman—and I say woman since the greatest numbers affected will be women—to establish some retirement security income in her own name, and at some meaningful savings levels. Even though current law allows the division of a spousal IRA in any proportion up to $2,250, many women have been cut out of the IRA movement. AAUW recognizes the importance of the homemaker's contribution to her family and her community. We are also pragmatic enough to recognize that we should not delude ourselves into thinking that spousal IRA's are a panacea for women's pension needs. IRA's help the middle and upper classes. One merely needs to look at the figures provided by the Joint Committee on Taxation to understand this reality.

In 1982, 11 million taxpayers took advantage of IRA's. Of these, 655,000 opted for the spousal IRA. Broken down by family income, those earning up to $10,000 did not use spousal IRA's, and only 29,000 families earning between $10,000 and $15,000 used spousal IRA's. The bulk of spousal IRA users fell in the income ranges of $20,000 to $50,000 with the largest number of participants, 235,000, earning between $30,000 and $50,000 in 1982.

The popularity of the spousal IRA increase is one which must be weighed against other more pressing pension and retirement needs of women in our society. While AAUW fully supports the IRA provisions, there are many fundamental changes in the pension area which still require congressional action. Provisions of the Economic Equity Act are but a beginning. The enactment of ERTA and TEFRA tax bills have addressed certain specific needs. If future public policy is to be developed in this area, AAUW recommends that changes be made in vesting provisions, eliminating the inequities of integrated pension plans, and providing for some pension portability for workers in this highly mobile society.

Too many elderly women live in poverty in 1983, and as our population grows older, we must develop policies which prevent our society from becoming a two-tiered system where men enjoy the benefits of their labors through a secure retirement while women live on the edge of existence because our lawmakers did not plan ahead to avoid social and economic injustice.

Thank you, Mr. Chairman.

Senator **Durenberger**. Thank you very much.

Ms. Gary.

[The prepared statement of Dr. Mendelson follows:]

STATEMENT OF JOHANNA S. R. MENDELSON, DIRECTOR, PUBLIC POLICY, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

Good morning. I am Dr. Johanna Mendelson, Director of Public Policy for the American Association of University Women. Our 190,000 college educated members represent the oldest and largest national organization for the educational advancement of women. Thus, it is especially timely for me to appear before this committee to express AAUW's support of legislation directed at remedying some of the most basic inequities in our society -- economic inequities which affect women of all ages, as members of the paid workforce and as homemakers, as married women, or divorcees or widows, as young women or as part of the growing ranks of elderly women who now comprise more than 60 percent of Americans over age 65.

AAUW supports S.888, the Economic Equity Act of 1983. It is, without a doubt, among the most important pieces of legislation for our organization.

The EEA is not a substitute for the Equal Rights Amendment. Rather, the EEA, as drafted,begins to implement changes in existing laws which would have needed correction, had the ERA been ratified in 1982. AAUW believes, however, that only with the force of a federal amendment, will the inequities addressed in S.888 be corrected once and for all. Statutory remedies can only be protected by a constitutional amendment. The passage of the ERA will serve to reinforce the types of basic reforms we seek today through the Economic Equity Act of 1983.

The AAUW has taken no position thus far on S.19, the Retirement Equity Act. It does, however, recognize that many of its provisions would substantially alleviate specific inequities in current pension law, such as vesting age, and spousal consent for election of joint and survivor annuity. We applaud the efforts of its author, Mr. Dole, for setting forth some much needed legislation in the pension area.

The pension and retirement provisions of S.888 embrace many of the recommendations made by earlier studies of pension systems which address special problems women face in their quest for a decent and financially secure retirement. Likewise, the bill addresses the special tax issues surrounding pensions, dependent care, individual retirement accounts, child support, displaced homemakers and heads of households which reflect the changing role women are playing in American ociety. In 1982, more than 9.7 million American family households -- about one in six or 16 percent of the 61 million families -- were maintained by women, and over two-thirds of these families included children under 18 years old. Let's face facts -- despite the nostalgia for family life a la "Leave it to Beaver", fewer American families will have a Ward Cleaver around to solve all the problems. Almost 9.4 million American families spent Father's Day without Father.

The feminization of poverty reflects not only the rising number of single head of households, but also the expansion of the female population among the aging. The poverty rate among the elderly was 15.3 percent in 1981, with older men having a median income of $8,173 as compared to women's which was $4,757, or just 58 percent of men's income (Source: Census Bureau, P. 60, #134, Table 17).

The President's Commission on Pension Policy Report noted that the existence of one pension benefit often was the difference between poverty and non-poverty in the elderly. Seventy-two percent of the elderly poor are unmarried women, that is single, widowed, separated or divorced.

As more women enter the work force, and with the average life expectancy increasing to 86 years by the turn of the century, it is vital that the past systems, geared toward working men, be updated to reflect the needs of working women.

Women suffer in the pension system in several ways.

- They often have no pension coverage though they have been employed.
- They are often eligible only for minimal benefit payments.
- They have no survivors' benefits protection from their husband's coverage.
- They are not protected for retirement if they get a divorce.

In 1979 only 32 percent of all women workers were covered by a pension plan. Of those who were covered, many never reached vesting and never earned retirement benefits because of career patterns, such as break-in service for childbearing, or moves to accommodate a husband's career. Furthermore, women workers are clustered disproportionately at the low end of the wage scale. Of the 65.1 million steadily employed, 64.2 percent were men who earned $22,196 as opposed $13,112 for women (Source: Andrew Hacher, "Where Have All the Jobs Gone?" N.Y. Review of Books, P. 27, June 30, 1983). Thus, in any existing pension system, women will receive minimal benefits compared to those of male workers.

I would like to direct my statement to Title I, Sections 101 and 102 of the Economic Equity Act, pertaining to eligibility for Individual Retirement Accounts. These provisions would allow each spouse to have an IRA of $2,000 as long as one spouse was earning at least $2,000 per year. Furthermore, alimony payments would be allowed in computing a person's total income for the purposes of determining their maximum allowable contribution to an IRA. Such provisions amend current law which limits non-wage earning spouses in the amount they can contribute to an IRA.

Increasing the maximum contribution for a non-working spouse is an important step. It provides yet another incentive for a woman (and I say woman since the greatest users will be women) to establish some retirement security income in her own name, and at some meaningful savings level. Even though current law allows the division of the spousal IRA in any proportion up to $2,250, many women have been cut out of the IRA movement.

AAUW recognizes the importance of the homemaker's contribution to her family and her community. We are also pragmatic enough to recognize that we should not delude ourselves into thinking that spousal IRAs are a panacea for women's pension needs. IRAs help the middle and upper classes. One merely needs to look at the figures provided by the Joint Committee on Taxation to understand this reality.

In 1982,11 million taxpayers took advantage of IRAs. Of these, 655,000 opted for the spousal IRA. Broken down by family income, those earning up to $10,000, did not use spousal IRAs, and only 29,000 families earning between $10,000 - $15,000 used spousal IRAs. The bulk of spousal IRA users fell in the income ranges of $20,000 - $50,000, with the largest number of participants, 235,000, earning between $30,000 - $50,000 in 1982 (See Table I).

Among families in the $30,000 - $50,000 range, 83.1 percent had more than one earner, as did those in the $50,000 - $75,000 bracket. At incomes of $75,000 or more, the proportion with multiple employment dipped to 72.4 percent.

As Andrew Hacher points out so clearly, "a striking feature of recessions -- indeed of depressions as well -- is how many people hold on to well-paying jobs. Even if those receiving paychecks cut down somewhat on their spending, members of the middle class still pay five figure tuition bills, move into condominiums and have something remaining for IRAs...." (p. 30. Hacher, op. cit.). Thus, the population to benefit most from IRAs are clearly the group with the smallest claim on federal assistance.

While IRAs have provided strong incentives for savings in 1982, IRAs accounted for $59.5 Billion, They are also a method of deferring taxes on income set aside for retirement. According to the Joint Committee on Taxation, estimates of current costs for IRAs, with the spousal options raised to $2,000, represent $100 Million in 1984; $400 Million in 1985-86, and $500 Million in 1987-88.

The popularity of the spousal IRA increase is one which must be weighed against the other more pressing pension and retirement needs of women in our society. While AAUW fully supports the IRA provisions, there are many fundamental changes in the pension area which require Congressional action.

Provisions of the Economic Equity Act are but a beginning. The enactment of the ERTA and TEFRA have addressed certain specific needs. If future public policy is to be developed in this area, AAUW recommends that changes be made in vesting provisions, eliminating the inequities of integrated pension plans, and providing for some pension portability for workers in this highly mobile society. Women workers today need lower vesting ages, a system to rollover pension earnings when changing jobs, and an end to the flawed concept of integrated pension plans, which penalize low paid workers by cutting into benefits earned while creating a tax shelter for businesses.

Too many elderly women live in poverty in 1983. As our population grows older we must develop policies which prevent our society from becoming a two-tiered system where men enjoy the benefits of their labors through a secure retirement while women live on the edge of existence because our lawmakers did not plan ahead to avoid social and economic injustice.

TABLE I

Spousal IRAs - 1982

Family Income	Number of Families Participating
$0 - 10,000	—*
$10 - 15,000	29,000
$15 - 20,000	33,000
$20 - 30,000	189,000
$30 - 50,000	235,000
$50 -100,000	139,000
$100,000 +	21,000

* insignificant

Source: Joint Committee on Taxation, 1983

STATEMENT OF WARLENE GARY, NATIONAL OFFICER, AMERICANS FOR DEMOCRATIC ACTION, WASHINGTON, D.C.

Ms. GARY. Thank you. I'm Warlene Gary, National Officer of Americans for Democratic Action. ADA is a national membership organization with members in every State.

I would like to thank the Finance Committee for giving me the opportunity to testify today. We are not going to deal with the technical aspects of the bill. Others are better qualified than us to do that. What we can testify to is the serious and pervasive economic problems that women face in today's society.

While women have always been in a less economically viable position than men, changing sociological and cultural factors have brought this problem to a critical level. The increasing divorce rate, the growing number of women in the labor force and heading households, and the wide income differential between women and men have made the feminization of poverty a frightening reality. While the number of people living in poor households headed by white males dropped 50 percent, the number of people living in poor families headed by women rose 54 percent.

Therefore, the Economic Equity Act is not simply a women's rights bill, it is an antipoverty bill, it is a family protection bill and it is a civil rights bill.

A recent report by the U.S. Commission on Civil Rights details how women have been victimized by discrimination in education, in job training, and in the labor force. Women have been consigned to low-paying jobs with poor benefits that have little opportunity for advancement. The considerable disparity between the earnings of women and men puts women at an even greater financial disadvantage. The well known 59 cents is for normal women, and for black women working, that number drops to 54 cents and for hispanic women, it drops to 49 cents. Three out of five working women earn less than $10,000 a year while one out of three earn less than $7,000. Thus, women make up a large proportion of the working poor; even when they are employed full time, they are unable to support their families.

Discriminatory practices, some of which are addressed by this legislation, exploit women when they are most vulnerable. For example, pension practices which deny benefits to widows and divorcees hurt women when they are least able to help themselves because they are elderly, enfeebled or alone. Inadequate child support enforcement laws leave women without protection when they are faced with raising a family on a low income. Martin Luther King used to talk about the paralysis of analysis, so I'm going to skip some of my testimony and speak specifically to title I of the bill which deals with pensions and retirement plans, and is an important step in considering marriage an economic partnership. It begins to recognize the differing needs and contributions of women who choose to remain in the home and raise a family. These women have very low salaries and discontinuous working records. They lose important pension credits when they leave the work force for childbearing. Divorced and widowed women are in an especially tenuous position. Only 5 to 10 percent of surviving spouses ever receive their husbands benefits. And out of the 21 percent of all women who have their own pensions, just 13 percent actually receive them. Individual Retirement Account [IRA] contributions are pegged to earnings, thus penalizing homemakers and the majority of working women who are low wage earners. Because of this inequity, elderly women are the fastest growing group of poor people in this country. There are twice as many older women living in poverty as men, and five times as many minority women below the poverty line as there are white men. The EEA provides significant help in some of those areas, such as establishing pensions as a legitimate property right, lowering the age of participation in pension plans from 25 to 21 years, or requiring that a survivor's benefit be paid to the participant's spouse. But it does not go far enough. Other measures, such as reducing the vesting period for pension plans from zero year to 5, or 3 years would be of enormous value to working women.

Let me jump to title III real quick. The prohibition of discrimination in insurance practices is not directly under the jurisdiction of this committee. I will only mention it briefly. But it is an important part of the EEA, and in many ways the most important and extensive in its impact on women. I think it is essential that this committee is aware of the insidious effects of gender based actuarial tables on women which result in poor benefits and high insurance premiums.

Women are not fooled by the deceptive campaign the insurance industry is running against this legislation, and I hope that Congress is not taken in by it either.

In summary, taken together, the Economic Equity Act helps to remedy a wide range of problems women face in our society. Elderly women would be assured of survivor's benefits, displaced homemakers would be covered under the targeted job tax credit program, mothers would receive some retirement credits when on maternity leave, female headed households would be eligible for the same standard deduction that married couples get, and receive tax credits for dependent care. Divorced women would be protected by much stronger child support enforcement laws when they are caring for a family, and would be guaranteed their pension rights when they are older.

Although this legislation operates in a number of areas that are of vital concern to women, it is by no means as extensive as it could be. We would thus like to remind the committee that only the equal rights amendment can fully protect women from discrimination.

Nonetheless, the Economic Equity Act is a step toward economic equality, a prerequisite to social and political freedom. Passage of the EEA would give women a legislative handle in protecting their rights, and we urge the committee to support it.

I would like to thank you and I would also like to resurrect, for the record, Voices for Women. This document was done in 1980. I happened to be the Acting Executive Director at the death of this document. We went all over this country and took testimony from women in four regions, on military Air Force bases in the Indian communities. This stands as testament to the legislation that you are now working on. Thank you.

Senator **Durenberger**. Thank you very much, and thanks to all of you.

[The prepared statement of Ms. Gary follows:]

Testimony
of
Warlene Gary
National Officer
Americans for Democratic Action
Before
The Senate Finance Committee
on
The Economic Equity Act
S. 888
June 21, 1983

I am Warlene Gary, National Officer of Americans for Democratic Action. ADA is a national membership organization with members in every state.

I would like to thank the Finance Committee for giving me the opportunity to testify today. We are not going to deal with the technical aspects of the bill -- others are better qualified than us to do that. What we can testify to is the serious and pervasive economic problems that women face in today's society.

While women have always been in a less economically viable position than men, changing sociological and cultural factors have brought this problem to a critical level. The increasing divorce rate, the growing number of women in the labor force and heading households, and the wide income differential between women and men have made the feminization of poverty a frightening reality. While the number of people living in poor households headed by white males dropped 50 percent, the number of people living in poor families headed by women rose 54 percent.

Therefore, the Economic Equity Act is not simply a "women's rights" bill, it is an anti-poverty bill, it is a family protection bill and it is a civil rights bill.

A recent report by the U.S. Commission on Civil Rights details how women have been victimized by discrimination in education, in job training, and in the labor force. Women have been consigned to low-paying jobs with poor benefits that have little opportunity for advancement. The considerable disparity between the earnings of women and men puts women at an even greater financial disadvantage. The 59 cents figure is well known; for black women working, that number drops to 54 cents and for hispanic women, it drops to 49 cents. Three out of five working women earn less than $10,000 a year, while one out of three earn less than $7,000. Thus, women make up a large proportion of the "working poor" -- even when they are employed full-time, they are unable to support their families.

Discriminatory practices, some of which are addressed by this legislation, exploit women when they are most vulnerable. For example, pension practices which deny benefits to widows and divorcees hurt women when they are least able to help themselves because they are elderly, enfeebled or alone. Inadequate child support enforcement laws leave women without protection when they are faced with raising a family on a low income.

Title 1 of the bill, which deals with pensions and retirement plans is an important step in considering marriage an economic partnership. It begins to recognize the differing needs and contributions of women who choose to remain in the home and raise a family. These women often have very low salaries and discontinous working records. They lose important pension credits when they leave the workforce for childbearing. Divorced and widowed women are in an especially tenuous position. Only 5 to 10 percent of surviving spouses ever receive their husbands benefits. And out of the 21 percent of all women who have their own pensions, just 13 percent actually receive them. Individual Retirement Account (IRA) contributions are pegged to earnings, thus penalizing homemakers and the majority of working women who are low-wage earners. Because of this inequity, elderly women are the fastest growing group of poor people in this country. There are twice as many older women living in poverty as men, and five times as many minority women below the poverty line as there are white men. The EEA provides significant help in some of these areas, such as establishing pensions as a legitimate property right, lowering the age of participation in pension plans from 25 to 21 years (the years when women have the highest labor force participation rate), or requiring that a survivor's benefit be paid to the participant's spouse. But it does not go far enough. Other measures, such as reducing the vesting period for pension plans from 10 years to five or three years would be of enormous value to working women.

Title II, the Dependent Care provision of the bill, is essential to the health and well-being of children and elderly or sick family members. Dependent care is not a luxury -- it is an economic necessity. Statistics show that two-thirds of all women in the labor force are single, widowed, divorced or have husbands who earn less than $10,000 a year. Almost 70 percent of all women with children are working, while 42 percent of mothers with children under 3 years are employed. This has resulted in a situation where 6 to 7 million children under the age of 13 are completely unsupervised while their parents work.

Single-parent families are often hit the hardest. One-third of these households live in poverty. The lack of dependent care prevents many poor women from leaving the welfare roles and entering the labor force. Those who most need to work are unable to do so as the cost of paying someone to care for their children or dependents is just too high to make-working worthwhile. Federal money for child care referral services and tax credits for dependent care would help ease the burden on working mothers.

Since Title III, the prohibition of discrimination in insurance practices, is not directly under the jurisdiction of this committee, I will only mention it briefly. But as it is part of the EEA, and in many ways the most important and extensive in its impact on women, I think it is essential that this committee is aware of the insidious effects of gender-based actuarial tables on women which result in poor benefits and high insurance premiums. Women are not fooled by the deceptive campaign the insurance industry is running against this legislation, and I hope that Congress is not taken in by it either.

Similarly, Title IV, which requires a comprehensive revision of federal regulations that reflect unequal treatment of women on the basis of sex, is not under this committee's purview. But it is an important civil rights measure.

The provision is much more significant than simply a language change for it would help remedy those practices which put women at an economic disadvantage and prohibit future sex-biased regulations. We also think it is important that the Federal government take' the lead in purging sex-based distinctions from its practices.

Title V addresses the critical needs of women who head households. There are some 8.2 million single female-headed families in this country, and that number is growing ten times as fast as male-headed families. Three quarters of these women do not receive any child support. This despite the fact that a woman's income usually drops 73 percent when she gets divorced while a man's increases by 42 percent according to a California study. In fact, half of all children who live in poverty live in households headed by women.

The number of fathers who do not pay any child support or pay less than the full amount awarded is startling. This results in an enormous economic burden for women. Yet even when child support is paid, the average amount does not begin to meet the cost of raising a child. Estimates say that only 3 percent of eligible female-headed families receive enough child support to put them over the poverty level.

For those women who are not on welfare, but must still struggle to support their families, there is little help. The laws are inconsistent and incomplete. And there is very little government assistance in tracking down those fathers who refuse to pay. Title V would provide for much stricter enforcement practices by establishing mandatory withholding of child support from wages, and collection procedures for non-welfare as well as welfare assisted families.

Taken together, the Economic Equity Act helps to remedy a wide range of problems women face in our society.

* Elderly women would be assured of survivor's benefits

* Displaced homemakers would be covered under the targeted jobs tax credit program

* Mothers would receive some retirement credits when on maternity leave

- Female-headed households would be eligible for the same standard deduction that married couples get, and receive tax credits for dependent care

- Divorced women would be protected by much stronger child support enforcement laws when they are caring for a family, and would be guaranteed their pension rights when they are older.

Although this legislation operates in a number of areas that are of vital concern to women, it is by no means as extensive as it could be. We would thus like to remind the committee that only the Equal Rights Amendment can fully protect women from discrimination.

Nonetheless, the Economic Equity Act is a step towards economic equality, a prerequisite to social and political freedom. Passage of the EEA would give women a legislative handle in protecting their rights, and we urge the committee to support it.

# # #

Senator DURENBERGER. I won't ask you any questions, because we have been asking each other's questions and answering their questions for about 4 years now, and I must express my appreciation not only to you as individuals, but to the many people and all of the resources that your organizations and institutions represent that have contributed to this legislation. Senator Packwood?

Senator PACKWOOD. There are no more questions to ask. The issues don't change. The evidence accumulates as we go on. Sooner or later we will pass all or most of this. You have simply fortified what we heard yesterday and yesterday fortified what we've known for the last 2 or 3 or 4 years, and we'll just keep plugging away at it and sooner or later we will get most of it.

Senator DURENBERGER. Senator Long?

Senator LONG. Yes; thank you.

Senator DURENBERGER. Senator Bradley?

Senator BRADLEY. Mr. Chairman, I have no questions. I just think that the witnesses' testimony, as Senator Packwood said, only underlines the need for action.

Senator DURENBERGER. Thank you very much and thank you all for your testimony. Our next panel consists of Dan R. Copeland, director, the National Council of State Child Support Enforcement Administrators from Anchorage, Alaska, who was our guest here last week at another hearing. I guess a lot of these people were. John P. Abbott, Utah State child support director, Salt Lake City, Utah; Sue Hunter, president, Louisiana Child Support Enforcement Association; and Michael E. Barber, deputy district attorney and legislative representative for the California District Attorneys' Family Support Council.

We have Mr. Barber and Ms. Hunter here. Welcome again. We need an H for Ms. Hunter. I think Russell will recognize her without the H, but there may be someone else here that won't.

Let me just say as you're taking your seats that we didn't all have the equal opportunity last week to listen to some of this testimony around the administration's proposals on child support enforcement, but many of us did have some opportunity to enjoy in a legislative sense the efforts on the part of the senior Senator from Louisiana to call into questions the depth of our joint commitment to the work that all four of you are expert at and that he has had a long-time commitment to, and since child support enforcement is such an essential part of economic equity for women, it has been incorporated into S. 888 and as an essential part of eliminating that particular discrimination that befalls women as mothers. So we are indebted to you. I am sure there is a certain amount of inconvenience to all of you to be back here twice in a row, but let me say that can't be measured in dollar terms because you are testimony to an awful lot of people who can't afford to come in and help us with this particular effort. So in advance, we are all grateful to you and we will begin the panel with Mr. Copeland, and then follow in the order that you have been introduced.

STATEMENT BY DAN R. COPELAND, DIRECTOR, THE NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS, ANCHORAGE, ALASKA

Mr. **Copeland**. Good morning. I'm Dan Copeland, president of the National Council of State Child Support Enforcement Administrators. I also serve as the director of the Alaska State Child Support Enforcement Agency. The national council includes the operational head of each State child support enforcement agency. This provides the council with a firsthand working view of the child support program and its complete impact on the public entitlement program.

The national council is extremely pleased with the attention that the Economic Equity Act has brought to the child support program. The act offers a number of technical operational improvements for the program, and the council supports all of these. Many of the more effective States are already doing a number of these items. While these improvements are significant, the most far-reaching and important aspect of the act is in the change of the purpose statement. That change I'd like to read just to make it absolutely clear what we're looking at. It says: "The purpose of the program authorized by this part is to assure compliance with obligations to pay child support to each child in the United States living with one parent." That's an extremely comprehensive statement and I think I need to point out that at this point the current statute language also would make this same requirement. However, in spite of this, the administration, through the Federal Office of Child Support Enforcement [OCSE], has consistently offered funding changes that direct the program in an effort that would limit the program to the AFDC caseload.

This inconsistency between statute language and OCSE funding direction has been a major point of question for the people doing most of the collection work. Conflict in the basic program direction has been one of the most significant factors in limiting the program's overall effectiveness. For example, many of the very effective States are declared inefficient when in reality they meet all program requirements and are doing an excellent job.

On the other hand, you've got ineffective States that provide a very narrow scope and are declared effective. You've also got States that are extremely ineffective that because of the program conflict in major direction, this is allowed to, you might say shield them, and not hold them accountable.

The national council has prepared a status report, and this policy inconsistency is raised throughout the report.

On page 19 of the report, the council calls for the basic policy decision to be made. That question is, Should the child support program be viewed as a service or a revenue generation program?

The Economic Equity Act makes it clear that all child support is important and both objectives can be met. At this point I think you might want to take a real serious look at the central registry aspect of the act. That is going to call for a significant funding requirement to establish the program networks, the computerized service load, and then the data capturing of the previous records.

We endorse that concept heartily, and we are keenly aware of the financial requirements that are going to be coming with that central registry concept. I would like you to take a look at the act and recognize that it's going to take more than just an approval vote from Congress. It's a major commitment to the child support work requiring it to do more than just governmental reimbursement. The long-term benefits of the financial and social impact will be far greater than the short-term financial requirements.

The council strongly recommends that this committee recognize the benefits of supporting the Economic Equity Act with your vote and adequate stable funding. Thank you.

Senator **Durenberger**. Thank you very much.

John Abbott.

STATEMENT BY JOHN P. ABBOTT, UTAH STATE CHILD SUPPORT DIRECTOR, SALT LAKE CITY, UTAH, ON BEHALF OF THE RECIPROCAL AND FAMILY SUPPORT ENFORCEMENT ASSOCIATION, DES MOINES, IOWA

Mr. **Abbott**. Mr. Chairman, it is an honor to appear once again before this committee. I am John Abbott, director of the Office of Recovery Services for the State of Utah. I'm also the immediate past president of the National Council of State Child Support Enforcement Administrators. I'm also here today testifying on behalf of the National Reciprocal Family Support Enforcement Association with over 5,000 members nationwide.

As an administrator in the support enforcement field, I'd like to review with you and comment on Section 504 of the Economic Equity Act. This has to do with strengthening of State child support enforcement procedures.

Section 20 provides that States shall seek medical support for children for whom it is seeking financial support when such medical support is available from the absent parent at a reasonable cost through employment-related health care or health insurance situation. We believe that this is an excellent provision. It may be somewhat redundant, however, as the administration is currently promulgating through their rulemaking process this very procedure and I don't know that it needs to be done legislatively.

Section 21 provides for mandatory withholding and payment of past due support from wages when such support has been past due for 2 months, as determined through the child support clearinghouse. Now, notwithstanding the debates on the merits or the problems with a clearinghouse concept, the mandatory wage assignment is an excellent enforcement tool. Automatic wage assignments for past-due support have proven very effective for several of the States that currently have these provisions. We believe that this should strongly be supported by the committee.

Section 22 provides a procedure for imposing liens against property and estates for amounts of past-due support owed by the absent parent. We think that this section should indicate with clarity that the imposition of liens only be applied to perfected judgments. Assuming this is clarified, we also recommend your support of this provision of the bill.

Section 23 deals with the imposition of an intercept for income tax owed by the absent parent and we also believe that this is an excellent concept. This has been employed and utilized by many States. It has proven very cost effective. There are some States in regard to the State tax portion of this provision where the State taxes are not that significant and it may well cost more in those States to gear up the system than you would ever get back. But the number of States where that would apply to are very minimal.

Section 24 provides that a quasi-judicial or administrative procedure be available to aid in the establishment, the modification, and the enforcement of support obligations as well as in the establishment of paternity. The quasi-judicial or administrative establishment and enforcement is, as a general rule, much more effective and efficient as well as available for a lower cost than the perhaps somewhat antiquated hands-on judicial involvement in each and every child support problem. Now, appropriate hearings and appeal procedures could be employed within this act to allow for all due process concerns to be addressed. And in regards to the paternity portion, we believe that the technology is certainly there in terms of the HLA blood tissue testing procedures that we could move ahead with this type of procedure.

The act also provides that the States must have at least three of the following:

(1) Voluntary wage assignment for payment of support obligations,

(2) the use of highly accurate scientific testing as determined by the Secretary to determine paternity,

(3) the imposition of a security, bond—and we would like to add trust account to that—or other type of guarantee to secure support obligations of absent parents who have a pattern of past-due support,

(4) a procedure whereby a proceeding to establish paternity may be carried out without the participation of the alleged father if such alleged father refuses to cooperate in establishing paternity, and

(5) use of an objective standard to guide in the establishment and modification of support obligations by measuring the amount of support needed and the ability of an absent parent to pay such support.

We believe these are excellent laws that would help to change the current trend of nonsupport by many individuals. They are also widely supported by practitioners in the field. In fact, 89 percent of entities responding to a recent poll conducted by the National Reciprocal Family Support Enforcement Association supported these laws. We believe, however, that a longer period should be allowed for States to implement these requirements, or require fewer changes in the short timeframes proposed.

With that caveat, however, we urge you to support these proposals which would significantly strengthen the program in many States. Thank you very much.

Senator DURENBERGER. Thank you very much, Mr. Abbott.

[The prepared statement of Mr. Abbott follows:]

STATEMENT OF JOHN P. ABBOTT ON BEHALF OF THE NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS AND THE NATIONAL RECIPROCAL AND FAMILY SUPPORT ENFORCEMENT ASSOCIATION

Mr. Chairman, it is an honor to appear before this Committee today. I am John Abbott, Director of the Office of Recovery Services for the State of Utah. I am also the immediate Past-President of the National Council of State Child Support Enforcement Administrators. As an administrator in the support enforcement field, I would like to review with you and comment on Section 504 of the Economic Equity Act, Strengthening of State Child Support Enforcement Procedures.

1. "(20) provide that the State shall seek medical support for children for whom it is seeking financial support when such medical support from an absent parent would be available at a reasonable cost through employment-related health care or health insurance;

   This provision will help offset Medicaid costs with minimal impact on child support units and should be supported. This is redundant, however, since it is currently being implemented by the Administration through rule making.

2. "(21) provide for mandatory withholding and payment of past-due support (as defined in section 464(c)) from wages when such support has been past due for two months, as determined through the child support clearinghouse;

Notwithstanding the debates on the merits and problems of a clearinghouse concept, the mandatory wage assignment is an excellent enforcement tool. Automatic wage assignments for past due support have proven very effective for several states who currently have this provision. This should be strongly supported by the committee.

3. "(22) provide a procedure for imposing liens against property and estates for amounts of past-due support (as defined in section 464(c)) owed by an absent parent residing in such State;

This section should indicate with clarity that the imposition of liens only be applied to perfected judgments. Assuming this is clarified, we recommend your support of this portion of the bill.

4. "(23) in the case of a State which imposes an income tax, provide that past-due support (as defined in section 464(c)) owed by an absent parent residing or employed in such State shall be withheld and collected from any refund of tax payments which would otherwise be payable to such absent parent;

This is an excellent concept and has proven very cost effective in a number of states that utilize this method. Some states with minimal state tax, however, will incur more costs to set up this system than they will receive in return.

5. "(24) provide that quasi-judicial or administrative procedures be available to aid in the establishment, modification, and collection of support obligations and in the establishment of paternity;

The quasi-judicial or administrative establishment and enforcement of support obligations is, as a general rule, much more effective and efficient as well as available for a lower cost than the perhaps antiquated hands-on judicial involvement in each and every child support problem. Appropriate hearing and appeal procedures also allow for all due process concerns to be addressed. The technology is available to proceed with this type of legislation as it relates to paternity establishment also.

6. "(25) provide for at least three of the following:

"(A) voluntary wage assignment for payment of support obligations,

"(B) the use of highly accurate scientific testing (as determined by the Secretary) to determine paternity,

"(C) the imposition of security, bond, (we would like to add trust account) or another type of guarantee to secure support obligations of absent parents who have a pattern of past-due support,

"(D) a procedure whereby a proceeding to establish paternity may be carried out without the participation of the alleged father if such alleged father refuses to cooperate in establishing paternity, or

"(E) use of an objective standard to guide in the establishment and modification of support obligations by measuring the amount of support needed and the ability of an absent parent to pay such support, such that comparable amounts of support are awarded in similar situations.".

We believe these are excellent laws that would help to change the current trend of non-support by many individuals. They are also widely supported by practitioners in the field. In fact, 89% of the entities responding to a recent poll conducted by the National Reciprocal Family Support Enforcement Association supported these laws. We believe, however, that a longer period should be allowed for states to implement these requirements, or require fewer changes in the short time frames proposed.

With that caveat, we urge you to support these proposals which would significantly strengthen the program in many states.

Thank you.

Ms. Hunter.

STATEMENT OF SUE HUNTER, PRESIDENT, LOUISIANA CHILD SUPPORT ENFORCEMENT ASSOCIATION, GRETNA, LA.

Ms. HUNTER. Mr. Chairman and Senator Long. I appreciate this opportunity to return here to this room. I am Sue Hunter, administrator of the support enforcement division in the Office of District Attorney John M. Mamoulides, Jefferson Parish, La. I also speak for the Louisiana District Attorneys Association and the Louisiana Child Support Enforcement Association in supporting the intent of these proposals to give equal treatment in child support matters for both welfare and nonwelfare cases. We think the problems of equal treatment will remain as long as funding is dependent on the dollars collected for only some of those who need our services, the welfare recipients. The Federal officials tell us now that we should tell nonwelfare applicants to expect very little in the way of services. Since we must allocate our resources on our funding formula, that is what we have to do.

We recommend that no shift in the funding formula be made until a realistic appraisal is completed of money saved by the Federal Government in welfare, medical benefits and food stamps for service to nonwelfare cases. This factor must be figured into the new funding formula allowing room for growth as resources become available to us to properly handle all those who need our services, and the women know that we will be able to provide them. Without this approach, the provisions of this act will only be a cruel hoax to the women who are already disillusioned with the system.

Although we support these proposals, we do have comments on a few of them. We qualify our support for Federal income tax offsets for nonwelfare cases unless there is a positive means of verification of delinquent support before the offset is submitted to the Internal Revenue Service. We have reservations about the quasi-judicial or administrative procedures because we have questions about the due process. We think justice should be left to the courts and not to the bureaucrats. But either way we do feel like sufficient leeway should be left for the district attorneys to have a strong role in enforcement.

We are concerned about the provisions to seek medical support. We fear that it would be an administrative nightmare with cost outweighing benefits. This would involve both the employer and the insurance company as well as the absent parent. If medical benefits become a part of the child support order, would we not be under the same obligation for enforcement and what party would we seek for redress if support is paid but not medical benefits? Who handles the disputes over the medical insurance claims? These are the reasons that we are questioning.

With regard to the child support clearinghouse, we go back to the proposed statement quoted earlier. Does this mean that every child in this country who is entitled to receive support under some kind of an order must have the services of IV-D regardless of whether the parent wants it or not? Why do you want to force a family through a bureaucratic process when the parents can and do handle giving and receiving support on their own?

In Louisiana we have the equivalent of a clearinghouse for IV-D cases only, but we have no way of knowing how many families there are out there who really need our services and have not yet applied for it. We hope that Congress will pass the measures that will bring us strengthened child support laws. We want these more effective techniques. But I think Congress must decide if there is to be a cost-effective support enforcement program or an effective national support enforcement program.

We are hoping, of course, that the Congress will take the latter course. We think it's the best choice, both morally and politically, and the long term it will save the taxpayers the most money. I want to caution that we understand that this is not going to solve all of the problems. Implementation is going to take a long time in the different States. The education in the court and with the general public is something that will continue for a long time.

Thank you very much for this opportunity.

Senator DURENBERGER. You're getting to be a real expert in stopping right on the dime, all of you. Mr. Barber, thank you for coming back.

[The prepared statement of Ms. Hunter follows:]

STATEMENT OF SUE P. HUNTER, ON BEHALF OF THE LOUISIANA DISTRICT ATTORNEYS ASSOCIATION AND THE LOUISIANA CHILD SUPPORT ENFORCEMENT ASSOCIATION

Mr. Chairman and Members of the Senate Finance Committe:

We are grateful for this opportunity to testify on proposed amendments to the Child Support Program under Title IV-D of the Social Security Act in S. 88.

I am Sue P. Hunter, Administrator of the Support Enforcement Division of District Attorney John M. Mamoulides in Jefferson Parish, Louisiana. I speak for the Louisiana District Attorneys Association and the Louisiana Child Support Enforcement Association.

We are in total agreement with the intent of the amendments proposed. At the same time, we are greatly concerned about the future implications should these provisions be enacted.

The thrust of the purpose statement amendment is to provide equal treatment of Non-AFDC cases. The current IV-D law already carries this provision, a position upheld two months ago by the U.S. District Court for the Western District of North Carolina in ordering equal support collection efforts for children not receiving welfare.

Problems of equal treatment do not come about because of the statement of purpose of the IV-D Act. The problems arise because of the funding mechanism which only gives incentives for collections made on welfare cases. Funding for what we do in child support enforcement is determined by our success in that one area alone.

So even though we may be trying to carry out all the provisions of the congressional mandate, we must weigh priorities in allocating resources if we are to have the dollars we need to continue to operate the program. In none of the child support conferences I have attended have I heard a federal official tell us that we should put Non-AFDc support establishment, support enforcement, or paternity determinations at the top of the priority list. Rather, we were advised to tell applicants they must expect to get very little service.

It is our understanding that the Office of Child Support Enforcement has been requested for the last five years to develop methodologies on cost avoidance of the Non-AFDC child support program. It is good to know that OCSE awarded that study contract this spring with the longer range goal of "much more refined recognition of AFDC, Medicaid, and food stamp cost avoidance in program financing structure."

The Congressional Caucus for Women's Issues should be most interested in the results of this study and any accompanying recommendations.

Knowing that this study is underway should also cause Congress to say "HALT" to any proposal which would restructure the funding formula right now. If for no other reason, it seems unwise to switch funding this year, knowing that another change will have to be made to take into account a realistic appraisal of the cost avoidance for Non-AFDC recipients. Shifts back and forth of that magnitude will damage the stability of the program. Federal, state and local governments have different fiscal years, with different times for funding allocation. Changes cannot be easily made. The uncertainty of the process disrupts continuity.

Make no mistake. The question of equal treatment of AFDC cases and Non-AFDC cases will exist as long as funding continues to be dependent on the dollars collected for only some of the recipients who need our services.

Funding for support enforcement is a complex matter.

We appreciate the concern of the federal government at open ended Federal Financial Participation which allows states to spend money regardless of the extent of efforts made and to save state money at a greater rate than the federal government.

At the same time we know too well the pressures for AFDC collections which results in NAFDC cases getting less service than AFDC cases because of limited resources.

With child support enforcement now a critical economic issue for more and more women who head single parent families, the dilemma of funding must be solved. As a national issue, it should be addressed at the national level.

You in Congress must decide which way to solve the future of the child support enforcement program.

> Does the federal government want to have an enforcement program which is cost effective?
>
> OR
>
> Does the federal govenrnment want to provide the funding to have an effective national support enforcement program?

Many of the proposals of the Economic Equity Act greatly expand work requirements for those of us in the field but give us little tangible results in dollars for staff to do that work. It would be a cruel hoax to all who need our services to pass this Act and then not to follow through on equal treatment because of the funding formula.

We turn now to specifics of the proposal.

We support these:

1) Mandatory wage assignments in the case of delinquent support.
2) Imposition of liens against property and estates for delinquent child support.
3) State income tax offset against refunds to collect past due support.
4) Use of highly accurate scientific tests to determine the likelihood of paternity.
5) Authorization for the court to require a security bond, or other guarantee to secure the child support obligation.

6) Automatic mandatory wage assignment for federal employees.

We qualify our support for federal income tax offsets for Non-AFDC cases unless there is a positive means of verification of delinquent support before the offset is submitted to the Internal Revenue Service. Without this, there is no means of verification for support payments or past due support.

Without experience in quasi-judicial or administrative procedures to establish and enforce support orders, we do have certain reservations. While administrative procedures may appear effective in some states, we have serious questions about due process. We think justice is better left to the courts, not to bureaucratic procedures. Should either an administrative or quasi-judicial process be instituted, sufficient leeway should be left for the district attorneys to have a strong role in enforcement. Without them, firm enforcement cannot be achieved in many cases of recalcitrant parents.

We oppose the provision to seek medical support when seeking child support. It would be a nightmare to administer and costs would far outweigh benefits. This would involve both the employer and the insurance company as well as the absent parent. If medical benefits become a part of the child support order, would we not be under the same obligation for enforcement? And what party would we seek for redress if support is paid but not medical benefits?

With regard to a child support clearing house, we go back to the proposed statement of purpose which we understand reads: "All children should receive their support through the IV-D program."

Does that mean that every child in this country who is entitled to receive support under some kind of order must have the services of IV-D, regardless of whether the parent wants it or not? Why force a family through a bureaucratic process when the parents can and do handle giving and receiving support on their own? Why should the federal government spend money to handle that transfer of money when families have sufficient financial resources of their own?

In Louisiana, we have a central registry for IV-D cases. We have no way of knowing how many families there are in the state who do not receive our services, but we can see where the Non-AFDC caseload would quickly overflow our resource capacity if the purpose statement was also mandated in a required IV-D state plan. That would seem to be a clear case of over-regulation and unnecesary interference in privacy.

Those of us in Child Support Enforcement were excited by President Reagan's statement in January:

> "Our commitment to fairness means that we must assure legal and economic equity for women, and eliminate once and for all, all traces of unjust discrimination against women from the U.S. code. We will not tolerate wage discrimination based on sex and we intend to strengthen enforcement of child support laws to ensure that single parents, most of whom are women, do not suffer unfair financial hardship."

We hope that Congress will pass measures which will bring that commitment nearer to reality. We want more effective techniques for support enforcement. We need the funding which would make it possible for us to provide services to all those who need and want them.

Thank you for this opportunity to express our views.

STATEMENT OF MICHAEL E. BARBER, ESQ., DEPUTY DISTRICT ATTORNEY, AND LEGISLATIVE REPRESENTATIVE, CALIFORNIA DISTRICT ATTORNEYS' FAMILY SUPPORT COUNCIL, SACRAMENTO, CALIF.

Mr. **Barber**. Thank you, Mr. Chairman. I want to thank you and the committee for this opportunity to testify again and to stand on the testimony I was able to present last week. I'm testifying today on behalf of the Family Support Council of the California District Attorneys Association. I'm an executive committee member of that organization as well as the Director of DERFSE, along with the gentleman on my left, and am also active in the Family Law Bar at the national, State, and local level.

I have set forth in my written testimony some of the information that I presented last week about the success of the IV-D program, going back to the Governor Reagan administration. All of this is presented preemptorily to demonstrate both the DA's commitment thereto and to relate this to material before you. Last week, you heard cumulative testimony decrying the inappropriate use by HHS of the words "performance funding" in describing its plan to reorient child support. Performance to OCSE of HHS is collections to reimburse welfare. But, as shown above, true success is to get enough support to end welfare for as many single parents as possible. Welfare collections are in part the fuel that drives this engine. However, Congress has shown greater wisdom than the bureaucracy in the two bills before this committee in recognizing that the true objective of performance and the goal of the support program is to end welfare dependents. It is this type of performance that is ending welfare dependents the California District Attorneys Association supports. It is hoped the comments that follow will help Congress in reaching this true mark of performance, freedom from welfare dependence for as many as possible.

On specific items, trustee concept is excellent, it's valid in Michigan. However, before this is imposed on nonwelfare cases across the country, assure yourselves that the financial system, the distribution system, the accounting system of some of your big cities is up to handling all the accounts that are going to be imposed on them. Chicago, Los Angeles, and others may not yet have the bookkeeping system to provide for timely disbursement.

Tax refund at State and Federal level is something we heartily endorse. Make sure, however, again, in line with Ms. Hunter's comments, that there is a system for timely resolution of disputes in these nonwelfare cases as to whether or not the funds are owed, and that the whole matter is cast in the context of a garnishment or private litigation to avoid confusing the matter with a setoff of public debts versus debts owed by the public in the form of a refund.

We support medical reimbursement and property liens, but I wish to point out these will cost some money, and if the OCSE structure is imposed, as I stated last week, where they look for nothing but short-term payoff, these may be very difficult to implement because they are indirect and long-term payoff items.

I question with Ms. Hunter the imposition of the administrative procedures. What works in some States may not work in others in terms of differing State court due process concepts, and we have had considerable battles within our system and the appellate level in California just on summary procedures through the judiciary. I am concerned about what might happen if the judiciary is removed from the process and the State courts, even at the trial level, are given the power to second-guess an administrative hearing officer.

On wage assignments, the concept has worked extremely well. California pioneered the wage assignment concept back with its divorce reform in 1969. However, on the national level I wonder whether or not it might be more timely to look at expanding 6305 of the Internal Revenue Code to provide for not the full lein now available in non-welfare cases if you're willing to go through the bureaucratic hassles and pay the $120, but to allow directly a modified lein against paychecks by laying this up against various organizations or various regional offices.

There are certain other proposals that I've injected into the materials before you—they begin on page 14—that you might consider and use to expand on the proposals already in the legislation: revising the incentive fund. It will provide for incentives in nonwelfare cases, perhaps downgrading the percentage overall but expanding on it.

Expand and reform credit reporting. Repeatedly we hear in our offices of women, nonwelfare in particular, whose credit is ruined because of the nonpayment of support. Yet there seems to be no effective mechanism for one reason or another to get the default on these orders before a credit reporting agency. What's sauce for the goose ought to be sauce for the gander.

The title IV–E funding: There seems to be an omission in that statute which is incomprehensible to me in view of OCSE's constant push for revenue. Take a look at that. That may well require some expansion and should be incorporated into IV–D.

Federal Court Registration of Orders is another concept that might be considered to avoid the delay involved in interstate process where you already have an order. Also perhaps karats. Consider deductibility or some other tax benefit to go with child support to the individual who pays in full and on time every month. You may get 10 out of 12 payments on, if not a voluntary basis but on a grudging basis knowing the club is hanging over the individual's head, but how much would we save, how much would the taxpayer save if we got 12 out of 12?

Encourage family counseling through unions and employers. The military which was plagued with family problems for a long time, and I'm sure you've heard the cases, has now come through with the family resource center which appear, at least, to me at the first flash to be quite effective organizations for trying to keep the family together and keep down the problems of divorce, and also by counseling the parties allows them to mitigate their hostility at each other and possibly encourage support payments, visitation, and mitigate visitation and custody problems.

Paternity establishment as a separate support responsibility. This was touched on in hearings last time. I wish to reiterate what was said at that time and has been said here again, and that is that in OSCE's accounting, we should keep track separately of these things. This is a unique, important individual responsibility under IV-D and I would submit that if OCSE kept track of those—it was interesting at the last hearing. I believe Senator Long asked the OCSE representative how much it cost to prosecute a paternity case in this country. I can tell him how much it costs in my county: $330 per case on the average. But they couldn't tell you that. They ought to be able to tell you that, and they ought to state it separately and forget all about trying to use it in cost accounting data in terms of the support enforcement aspect.

I submit further that if they did do that, chances are all of these straw men raised about cost effectiveness in this program would blow away just like straw ought to blow away in a strong wind.

The above recommendations and comments from the child support aspects of the Equity Act have been offered as a series of hopefully helpful suggestions. Child support enforcement has gone far in this country in just seven years. The social problems that produce title IV-D also seem to be growing as fast or faster. The authors of H.R. 2090 and S. 888 have made an important contribution to the dialog over these social problems by recognizing the key to their resolution is expanding the protection for all single parent families. In doing so, they have given substance to the statement of President Reagan earlier this year to the effect that we intend to strengthen enforcement of child support laws to insure that single parents, most of whom are women, do not suffer unfair financial hardships.

Such has also been the goal of the California District Attorneys Family Support Council, and the purpose of my testimony today. It is hoped this testimony will further that goal.

On behalf of the Family Support Council, thank you, Mr. Chairman and members of the committee.

[The prepared statement of Mr. Barber follows:]

STATEMENT OF

MICHAEL E. BARBER
REPRESENTATIVE

on behalf of the

CALIFORNIA DISTRICT ATTORNEYS FAMILY SUPPORT COUNCIL

Mr. Chairman and Members of the Committee:

I want to thank the Committee for this opportunity to present this testimony to you on behalf of the California District Attorneys Family Support Council. I am Michael E. Barber, an Executive Committee Member and representative of that organization. The purpose of this testimony is to support the provisions of the Economic Equity Act concerning child support enforcement, and to offer suggestions to improve and expand them.

In California, the District Attorney is responsible for enforcement of support and prosecuting paternity cases. This has been a responsibility of this county officer since 1872. Title IV-D's predecessor program in California was a product of the efforts of the Governor Reagan Administration working with the District Attorneys. The work has been considerable and prodigious. In twelve years (the beginning of welfare reform in 1971), we have seen collections go from $25,000,000 to well over $200,000,000 in California. In the early stages of this program, we saw AFDC growth stopped in its tracks in California. Nationally, five years later, a similar manifestation occurred. Oregon, Nevada, selected counties in Missouri, and countless other jurisdictions saw the same effect. If you begin to vigorously enforce support, then IV-A begins to become a manageable problem.

All of this is presented preemptorily to demonstrate both the California District Attorneys' interest in the subject and to relate this experience to the material before you. Last week, you heard cumulative testimony decrying the inappropriate use by HHS of the words "performance funding" in describing its plan to reorient the child support program (Title IV-D). Performance to OCSE is collections to reimburse welfare. But, as shown above, true success is to get enough support to end welfare for as many single parents as possible. Welfare collections are but the fuel that has driven this engine toward this goal. Congress has shown greater wisdom than the bureaucracy in recognizing this as the true objective of performance and the goal of the support enforcement program. The proposals before you go far beyond mere recoupment. They are aimed at the true goal of the child support program. Hopefully, an end to welfare dependance. It is this type of performance the California District Attorneys support. It is hoped the comments that follow will help Congress in reaching this true mark of performance, freedom from welfare dependence for as many as possible.

Before I comment on individual points, the change in the population we deal with in child support enforcement must be discussed. The continuing increase in divorces has left more and more families dependent on some form of public service in enforcing support. The Weitzman work (UCLA Law Review Aug. 1981, page 1181), shows clearly the direct correlation between divorce and impoverishment of children. Also to be noted is the increasing percentage of live births that are out of wedlock, up from 10% to 18% in the last twelve years. This twin phenomena explains why, even though support collections have gone from $600,000,000 in 1976 to $1,800,000,000 in 1982, and the number of people receiving support climbed 80% from 1975 to 1978, non-support continued to be a major problem. The increasing volume of paternity cases, and the increasing burden of new child support related divorces also explains why Title IV-D costs have climbed as much as they have. Given this crush of cases and the poor economy, it is amazing the program is still showing the taxpayer any return, let alone the 32% cash return it showed in 1982. This situation points up the need for expanding and simplifying legal remedies to non-support, which is the aim of the Equity Act's child support provisions. It also points up the need to separately identify costs of paternity establishment for the good of the whole support enforcement program.

Specific Proposals of the Equity Act

Public Trustee or Central Registry:

This proposal would pattern the nation's child support system after the Michigan program, by requiring all support come through a public agency. Although there may be some ojection based on privacy and preserving direct contact with the family, given the low level of full compliance with court orders (only 6% during the life of the order), it seems warranted. The Michigan system also continues to set the pace nationally in collections on welfare cases, thus pointing up the efficiency of a system that keeps track of every support case from the time it is filed.

However, there are several problems with the proposal. First, the concept ought not be made part of the system until big city accounting systems are prepared to handle the volume of payments. Thus, the two to three-year lead-in time in the Equity Act may not be sufficient to put this on stream.

Second, the statute is written in terms of the "state" having the depository. In any reasonably populous state, the depository should be at the local level. Too many errors can occur that require local, personal contact. It would be difficult to justify sending San Diego money to Sacramento that would, in turn, be sent right back to San Diego. Committee comment to this effect, plus using the words "cause to have maintained" might cure the problem. As I testified to previously, OCSE opposition about funding non-welfare activity must be overcome.

Third, even in Michigan, by express judicial approval, some cases were permitted to pay outside of the system. This involved less than 1% of the cases and was permitted only so long as there was no default and it was mutually desired. The statute might be modified to permit this.

The concept will minimize duplication of effort and result in cost savings as a result of a constant monitoring of the support case without regard to default. Since non-support is a crime, it functions as a crime prevention unit. Such a concept will be independently investigated in California this year with an increasing number of varied interest groups in support thereof.

"Garnishment" of Tax Refunds for Non-Welfare Cases:

The District Attorneys Family Support Council unreservedly supports this concept. However, the statute should be reviewed to make clear that the monies are being seized under a garnishment concept and not a setoff of mutual debts. It should be clearly understood that the right the public has to setoff takes priority over private rights. As to litigating private claims thereunder, the language found in Sec. 6305(b) of the Internal Revenue Code, consigning such litigation to the appropriate state court, could be incorporated here.

Medical Reimbursement:

So long as the IV-D funding structure is kept intact, this should be a manageable program requirement. However, there may have to be a separate structure organized to litigate claims against the insurer. It should also be noted the statute does not define the coverage of the medical insurance (i.e. amount of deductible, if any, exceptions to medical needs provided for, etc.).

Property Leins:

This statutory requirement should be easy to comply with since every state has some vehicle for recording a judgment lein. Thus, being able to reduce the support order to judgment and recording the judgment should suffice where the order cannot be recorded directly. This does not reach the problem as to whether the lein applies to property acquired after recording or whether continuous recording is necessary to collect on installments due and unpaid after recording. The statute does not define "property". If this includes personal property, then it is doubtful whether any state can comply. The term "estates" is similarly vague.

State Tax Refund Garnishment For Non-Welfare

This proposal is a logical extension of the setoff concept. The problems with the federal concept also apply here. So long as it is generally distinguished from setoff, these problems should be minimized. There is an additional problem with implementation of the concept at both the state and federal level. Claims of lack of due process have been raised in federal court. As a practicing family lawyer, I consider these claims spurious since issues relating to due process are resolved in the initial litigation, be that a divorce, paternity suit, or some related activity involving reduction of support orders to judgment. However, federal courts do not seem to be well versed on state divorce procedure and are publishing rulings that denegrate the process and reflect this ignorance. Because of this, some states may be reluctant to extend this program until these federal questions are resolved. Bringing into this litigation family law practitioners familiar with state procedure might be helpful in securing a swift and truly fair resolution of these cases.

Administrative Procedures:

We seriously question imposing this concept as a federal mandate. This concept is not defined. While some small states, Utah, Alaska, and Washington, have found administrative courts helpful, Michigan, Wisconsin, Minnesota, Iowa, and California function in a timely manner through their judiciary. To create a separate level of judiciary at the state level that can impose permanent obligations on individuals is to potentially raise a whole new series of due process problems. While the trial judiciary may not always function satisfactorily to program administrators, there is no certainty that administrative hearing officers will be an improvement. In such areas as paternity, where a jury trial is a right in California, or enforcement by contempt which is a mainstay of the Michigan program, a non-judicial procedure would be useless or, worse, raise due process questions now resolved. Funding for such an extensive revision of the state's judicial system is another problem. It is unlikely that the states would dismiss a percentage of the judges now hearing these matters and substitute hearing officers. Rather, there would be an augmentation that would be quite expensive if qualified individuals were used as hearing officers. Cost is already a major concern to OCSE. How much more would IV-D cost if now it had to fund a new judicial level (or quasi-judicial level) in such states as Illinois, California, and Michigan? Couple this with the uncertainty that would be introduced into the system as the inevitable appeals were litigated and this becomes a rather poor program mandate.

As an alternative, it is suggested that state courts be mandated to grant hearings on support matters within limited time frames. Forty-five days from the date of filing a motion or action for support, six months for a paternity trial would be fair limits. If this is unavailable, then the courts could be required to appoint special masters or commissioners to bring their calendars up to federally required levels. The political pressure that being unable to meet these deadlines might, in itself, cure the problem. Other deadlines could be created surrounding issuance of enforcement process. Two weeks on a garnishment, writ of execution, sequestration, wage assignment, or other property seizure order should be sufficient. The power to implement this requirement could be lodged in federal district court. The whole state obligation to comply could be incorporated in the grant in aid program surrounding Title IV-A. Thus, the problems that resulted in administrative process would be met with a less expensive alternative.

Wage Assignments - Mandatory and Voluntary

These items where separately stated are lumped together here for testimony. Voluntary wage assignments present no problem, but the need for them is open to question. If an individual would voluntarily consent to a deduction of support from the paycheck, who is to interfere or question the arrangement? Why must it be made a matter of federal law?

As to mandatory wage assignments, the proposed statute could be revised to improve and clarify it. The statute talks in terms of a two-month default. This implies there must be two missed months. Suppose partial payments are made? State statutes have met this issue by stating the default that triggers the involuntary assignment is a sum equal to two months' payments. Thus, partial defaults are accumulated until the default equals the appropriate sum and this permits the process to issue.

Also, most state statutes have a time frame in which the default must occur to be counted. This has none. On its face, it means any two months over the life of the order (which could be eighteen years). If a time frame is intended, it should be included. If it is not, there should be committee comment.

This statute could come in conflict with state consitutional limits on garnishment in such states as Texas where wage garnishment is forbidden. To avoid this conflict, it is suggested

Congress consider adding a supplement to the child support lein procedure now authorized under Sec. 6305 of the Internal Revenue Code. Rather than create a full lein, permit the collecting agency to place an order on file with any office of I.R.S. which processes "W-4"'s (withholding statements). I.R.S. then would notify both the employer and the court when an absent parent's W-4 came through. IRS would at the same time issue an order to the employer to take out of the employee's paycheck the child support and send it to the collecting agency. The employer would get a suitable sum ($2.00 per check) from the employee for this task. If the money did not get paid to the IV-D agency, that agency could then invoke I.R.S.'s enforcement powers and, also, sue the employer civilly. To avoid too much pressure on I.R.S., this procedure could be limited to cases where the obligated parent could not be found in the state where the order was entered, at least at the time of filing the order with I.R.S. The voluntary concept could also be infused in this in that the W-4 could include a clause for voluntary deduction of child support, which the employer would have to honor.

By making payments directly to the agency where the court order was entered, I.R.S. avoids being the middle man. Its process serving costs could be reimbursible. Such a procedure, being federal, would avoid a collision with state constitutions. Direct filing with I.R.S. avoids the delays under "6305" that now inhibit the full use of that statute. As is now stated in Sec. 6305, I.R.S.

state courts would be the vehicle for litigating substantive claims of the employee.

Use of Scientific Tests to Determine Paternity:

This concept is now the law in the majority of states, and all states are moving rapidly to do just what is mandated. However, the decision as to just which genetic tests are scientifically accepted has rested with the courts. This bill would seem to vest this authority with the Secretary of HHS. While there ought to be nothing to prevent the Secretary from making a recommendation, to condition IV-D funding on a court accepting an HHS determination whether or not chromosome banding or HLA testing on the "C" locis is scientifically accepted seems a bit extreme. A broad panel of tests being authorized could needlessly raise the cost of the program. It is submitted that this is one area where judicial discretion should not be invaded to the degree this statute suggests.

An Ability to Obtain a Default Paternity Judgment:

Again, there is nothing wrong with this concept. It is implicit in any civil proceeding and, under certain circumstances, in some criminal procedures. Due process considerations could raise their head in this area, however, if the refusal to cooperate was based on a correctly formed legal opinion that the court in which the action was initiated did not have jurisdiction. Adding after the words "carried out" - "in a court or administrative tribunal of competent jurisdiction" should cure the defect.

An Objective Guide on a State by State Basis for Support Orders:

This concept is now before the California Legislature with the endorsement of the District Attorneys. While it would curb judicial discretion, it would not eliminate it. The California scale will be related to Department of Agriculture studies on what percentage of family income is devoted to raising children and on AFDC grant size as a minimum basis for support. If basic family income is less than that which would support the parent and also pay the AFDC grant, the Department of Agriculture percentages are applied to the income to secure an appropriate support order. It remains to be seen if this concept will pass.

This Equity Act provision will have the greatest difficulty in being accepted by the states since it intrudes so directly into judicial discretion at the local level. If it were rewritten to make state receipt of IV-A funds conditional on using in court a scale of support orders that would assure the federal government of significant recoupment of those funds, then it would have a rational basis and, so, withstand judicial scrutiny. The formula could be written in percentages rather than flat numbers. It would be clear that the AFDC related sums would be minimums and the courts could order more if justice, equity, and the needs of the child so required. The state legislatures would then, in effect, control the minimum support order in their state through the IV-A grant level they set.

Security Bond for Support

This concept is already found in URESA (adopted in every state and territory in the U.S.), and in the Uniform Desertion and Non Support Act (adopted in 30 states). California includes this in its civil support law and its parentage act. It is useful but limited in its application. Conceptually, it is a proper part of a support program.

Bankruptcy Reform

This, being a matter of federal law, would seem to present little problem in getting an amendment. Chapter XIII should also be reviewed. The continual renewal of plans thereunder has been used to block recoupment of delinquent support. This has been a particular problem in cases involving tax refunds since at least some California Bankruptcy Courts have prevented setoff and required these be paid to the trustee.

Federal Allotment

While in California this appears unnecessary because of our powerful garnishment laws, it will simplify support collection where statutes are less progressive. It is therefore endorsed.

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Concepts To Be Considered in Improving Support

Expand and Reform Credit Reporting:

A delinquency in paying on a support order is no less a bad debt than a failure to pay on consumer credit. Yet, there appears to be little communication between IV-D agencies and credit reporting agencies. The problem seems to be the mutual communication required by law between the creditor and the reporting agency. This appears to conflict with privacy statutes that are part of Title IV-D. These statutes ought to be reviewed to permit a free flow of this information. It is unfair to other lenders and to the support-debtor to permit credit to be extended to the borrower because this large and primary debt is hidden. This would also encourage those groups of individuals whose business depends on credit, notably the self-employed small businessman, to give greater priority to his (or her) support order.

Revise the Incentive Fund to Pay a Percentage on Non-Welfare Collections:

This concept would encourage raising child support orders to get the family off AFDC. In so doing, it would pay for itself in savings on the administrative cost of Title IV-A, as well as the IV-A grants that would be saved. The amount on which the incentive would be paid might be limited to some significant per child amount such as $400 per month per child. The overall incentive percentage might be reduced but the return to the sta still would remain the same if some equitable figure, such as 10%, could be found. To encourage states to adopt the "central clearing house", this could be available only to states with that concept.

Title IV-E Funding

It appears that at present there is no clear legislative mandate to secure recoupment of support paid under Title IV-E. This program, when part of IV-A, was related to IV-D. This is a significant amount of public funds that could provide relief to the federal government, making funds available for other family programs. It should be brought under Title IV-D.

Federal Court Registration of Orders:

When Title IV-D was enacted into law, it was anticipated 42 USC 660, authorizing use of the federal court to determine support controversies, would play a significant role. Use of this statute was conditioned on approval under 42 USC 652 (a) (8). That statute appears to limit applicability of "660" to cases where there is a court order and it has been rejected by the state of residence of the obligated parent. The approval process is too cumbersome for the result. It is simpler to use a similar procedure to refer such cases to I.R.S. under "6305". If "660" is to be limited to prior order cases, then the statute should be revised to permit registration with the federal court without prior HHS approval. Also permit nationwide garnishment process to issue from that district court on the registered order. Give the district court the power to refer back to the state court substantive issues of family law. Restrict venue to the district where the order was entered. Finally, leave this remedy open to private counsel. Except for litigation surrounding the judgment execution procedure, federal court litigation would be minimal. By using the federal court, due process rights would be protected and the scope of enforcement enhanced. Such amendments as are necessary to assure that the appropriate district court would have nationwide scope to itsenforcement process would have to be enacted. This could be a basis for a federal wage assignment and would be an alternative to the W-4 process referred to above.

As to those cases where no order had been entered, particularly cases where parentage is at issue, some consideration ought to be given to creating special Article I courts, comparable to Bankruptcy Courts. These courts could be limited by the review now required under "660" but, of course, the prior order requirement would be stricken.

Deductibility of Child Support:

As an incentive to the obligated parent, some consideration should be given to treating child support in the same manner as alimony for tax purposes. Because of the wide disparity in income between custodial parents and non-custodial, it is doubtful this would have any significant tax consequences to such parents. Where such payments had offset AFDC benefits, there should be no tax consequences to the custodial parent and so state by statute. The right to this deduction could be conditional on the parent paying in full what was due during the preceding year. A certificate from the local IV-D agency would have to be secured to gain this benefit.

Encouragement of Family Counseling Through Unions and Employers:

All of the above presumes lack of a family (a paternity case), or the breakdown of the family (a divorce). It also makes painfully clear just how expensive this whole process is to the children, to the parties, and to society as a whole. The Armed Services, with the unusual stress that military employment places on family life, have been plagued with this problem. They also are leading the way in doing something about it. The Family Resource Center, providing counseling and emotional support for the family, is the military answer. The program appears to be effective. At least it has engendered wide participation. Family problems do impact job performance and employability, not just in the military. It is suggested this program be carefully studied. Assuming it is the success it appears to be, some federal effort should be considered to encourage its duplication by other large employers, and by labor unions which deal with a significant segment of the population. By encouraging family stability and responsibility, such concepts as garnishment, seizure of tax refunds and the like might be moot.

Paternity Establishment as a Separate Support Responsibility

Repeatedly throughout these hearings, on the budget and the Equity Act, comment has been made on the separate and unique character of paternity establishment within the scope of family obligations. The threshold question in these cases is not what will be paid, but is there a father? Even if no resources ever come from that father, the biological and social heritage that most of us are guaranteed through the marriage of our parents, is given the child only by this process. Support rights may flow from unexpected sources once this is established. It is because of this unique aspect of the program that Title IV-D has two titles: Child Support and Establishment of Paternity (Program Emphasis Added). Unfortunately, almost all the above discussion on strengthening Title IV-D has focused on support. It is hoped that in developing the concept of equity, out-of-wedlock children are not forgotten. As an important first step, it is recommended that HHS be required to report paternity costs and results as a separate program aspect. To discontinue co-mingling these funds will permit future committee hearings to better evaluate all aspects of Title IV-D and to assure that equity is extended to that least powerful citizen,the out-of-wedlock child.

SUMMARY

The above recommendations and comments on the child support aspects of the Equity Act have been offered as a series of hopefully helpful suggestions. Child support enforcement has gone far in this country in just seven years, but the social problems that pro duced Title IV-D also seem to be growing as fast or faster. The authors of HR 2090 and S 888 have made an important contribution to the dialogue over these social problems by recognizing the key to their resolution is expanding the protection for all single parent families. In so doing, they have given substance to the statement of President Reagan earlier this year:

> "We intend to strengthen enforcement of child support laws to ensure that single parents, most of whom are women, do not suffer unfair financial hardship."

Such has also been the goal of the California District Attorneys Family Support Council and the purpose of my testimony today. It is hoped this testimony furthered that goal.

On behalf of the Family Support Council, I thank the Chairman and the Committee for permitting me to present these views.

Senator **Durenberger**. Thank you very much.

Let me thank all the witnesses and without objection I am going to put in the record at this point the Washington Post editorial of last Thursday, June 16, entitled Deadbeat Dads, and just read the last line in the article. It says: "A society that cares about its future will make every effort to see that its children are not raised in deprivation and that their parents recognize that the decision to have children entailed lifelong responsibilities." In the area with which we are dealing, we spent a lot of time in these 2 days of hearings talking about the way in which our particular society is legislated against the rights of women, and we haven't necessarily talked about one of the most important roles of women, and that is motherhood. There is always the implication that there is a greater responsibility vis-a-vis the child in the mother than there is in the father, and clearly from my practice and I'm sure the law practice of my colleagues, we always struggled with being in part lawyer, in part Solomon, in part counselor, in part welfare worker, in part so many things that we were ill-equipped to do, but in part because society hasn't equipped any of us with a standard by which to measure our responsibilities and/or our rights and that is particularly true of fathers, and since all fathers are male, of males in our society. And it strikes me as I listened last week to your testimony and again this week that somehow or other we need to elevate the rights of children in our society to the point where before a new child is conceived the potential father and the potential mother recognize the responsibilities that somehow go with those rights.

Now, when I say we, I do not mean the Senators or the House Members. I mean as a unique society here in America. It seems to be about time that we deal with it because a lot of what I hear back in this testimony, it's going to be a little hard to decide. For example, Ms. Hunter seems to put the strong emphasis on, "Gee, I hope this is a national program." And yet where you see some innovation in some of these areas, you're going to see it come out of the State level.

I can't understand with the interstate problems and trying to run people down and all that sort of thing that there is an inclination to say that it has to be in the sense national. But our common task here is to try to find that right combination, I guess, of inculcating in the individual some sense of responsibility eliminating from the legislation, both the State and the Federal level, barriers to the exercise of that responsibility, and then I suppose the third is imposing some new set of means by which those in the public sector and in the private sector can facilitate these relationships. So I have just one question. A lot of it goes back to the two lawyers in trying to anticipate some of these problems.

A fair amount of testimony here deals with the aftermath of some of these problems, and Ms. Hunter said justice should be left with the courts, not with bureaucrats. But it often occurred to me it had been a long time since I've practiced, but it had often occurred to me that before you ever went in to court to get your justice, if you had ever sat down with the right kind of people, say in the human resources or what's now called human resources, social services and so forth, and you kind of anticipated some of these things in terms of jobs and credit and a lot of these other things, that maybe it would smooth out the system.

Maybe one of you could just bring me up to date on how enforcement is or could be facilitated by what happened sort of before the *fact of dissolution or separation or justice from the court. Am I* making my question clear?

Mr. **Barber**. I think one significant aspect of the act is it's some form of national scale for support. One of the biggest complaints against the judiciary is capriciousness in setting the support order in the first place. We are now debating for our California Legislature a scale that at least at the bottom end will be pitched at what will be paid out in AFDC in our State, and I have suggested in my written material that Congress take a serious look at that and make a condition in participation in the AFDC program, the grant-in-aid program involved that the courts have, or use a scale aimed at trying to get at least a percentage of that if not over certain income levels, the whole thing back in terms of divorce and support orders and paternity cases.

Given those parameters to council on both sides, I'm advised by private practitioners if they know what the ballgame is going to be, at least the support issue is seldom argued in court. It's when there is no scale and when the courts are capricious that you have one of these knockdown, dragout fights over support.

Senator **Durenberger**. Any other comments?

Mr. **Copeland**. I would assume ultimately you're talking about during the process of the creation of the order in the first place. In Alaska we have just set up two divorce mediation centers and that seems to have had quite an impact where we can get it accomplished, because we get the two people talking. OK, now that divorce is accomplished, we agree that the two of us are separated so to speak, and the two people talk in those terms with a mediator there, and recognize things like visitation, custody changes over the years, and child support payments. All three of those things come in together and at the Divorce Mediation Center, you're working before anybody's delinquent, or before anyone's wrong, so to speak. The divorce is an accepted matter.

I think with something along that line—a mediation center making it available for lots of people—you might end up with far fewer child support problems.

Mr. **Barber**. I support that sentence.

Mr. **Copeland**. A second part of that: In some cases you constantly run into the fact where the father comes in and says,

> I have a piece of paper here, it's a court order, it's in two parts. Part one says I'm to pay so much a month, and the government tax-supported agencies help enforce part one. Part two says that she is to provide me with certain visitation. When she moves, and I can't find her, you all tell me that's my problem.

It creates a very difficult collection case where ultimately the agency really has one of the most interested parents in the world, so it works both ways. If there were some way to address visitation or deal with the issue but it would be an extremely complicated area.

Senator **Durenberger**. I'm glad you brought that point out because that is one of the realities of family law practice, that one is going to hold out against the other and you get in the middle of the system.

Mr. COPELAND. As the system gets larger, and it is obvious that there is more attention being brought to the child support area now. Once the system gets more effective and efficient and so forth, all of a sudden we are going to be, to some degree concentrating too much in one direction. We have to recognize that there are two sides of the caseload, and once we start dealing with both sides, we ultimately end up eliminating the hostility, the fight, and theoretically we will get them back to where they will handle it themselves. Then there won't be a need for child support agencies in a large number of cases. That has the more long-term benefit for the child.

Senator DURENBERGER. Thank you very much.

Senator Long?

Senator GRASSLEY. I thank Senator Long for letting me go ahead. Mr. Chairman, at 11:45 I have an appointment. I wanted to direct a series of questions to Mr. Barber, but any of you who want to contribute to the answers, I would welcome you to do it, and this is in regard, Mr. Barber, to your suggestion as an alternative to the garnishment of wages in order to collect the delinquent support payments, your suggestions for a special lien procedure whereby the collecting agency would place an order with the IRS to notify both the employer and the court in the case of where a missing parent's W-2 form or W-4 form came through, and then simultaneous with you, you suggest that the IRS deduct the amount of the deficiency from employee's check and send it to the collection agency.

Now, my question would center around that, whether or not the amount is to be held or if the amount is to be withheld from the employee's pay, do you envision the IRS notifying the employer to increase the amount withheld?

Mr. BARBER. Just one modification on your description. It would be an order from IRS, but to send the money directly to the appropriate IV-D, not to send the money back to IRS and then down to the Treasury. The concern is that you've got one more pair of hands if you send the money up to IRS. Have the employer, as is now done in the wage assignment process within States, do this even interstate when using the lien procedure there.

Senator GRASSLEY. Well, then, does my first question fit in with the way your procedure would work mechanically?

Mr. BARBER. Mechanically, yes, because you would have an order from IRS to the individual employer to increase the deduction by the amount of the support order. However, the second step would be a direct check from the employer to the court trustee.

Senator GRASSLEY. OK. Do you see any due process problems with this approach?

Mr. BARBER. No; because we are presupposing a court or administrative order which means that the individual has already been accorded their day in court and a set support amount has been established.

Second, we are talking about an employed individual so that even in those jurisdictions which allow retroactive modification of court orders based on unemployment, the fact situation simply wouldn't arise because the individual would be employed.

At least under California law, and I believe it's the law generally, once you have had your hearing in which the divorce order is set, due process requirements have been satisfied. The question of compliance or enforcement, then, is a matter that is, in effect, up to the court. The only objection that could be raised is, "I think I've been paying it regularly," or "I'll try to make it up. Why should my employer be brought into this?" But experience has shown, and there's a Michigan study that shows only 6 percent of orders are paid in full at one time, and I think we can justify through an overriding public purpose and the protection of these orders increasing that from 6 percent justifies this kind of minimal intrusion into the person's living circumstances.

I also think it involves a big PR program with the chamber of commerce.

Senator GRASSLEY. I guess now I would ask for your reaction to an argument we get not only from some members of both bodies here on the hill, but also more directly from the IRS itself of whether or not an agency whose primary or if only function is the collection of taxes, our involvement of them in being a debt collection agency so to speak. It would be argued that they shouldn't be. I don't think the IRS is asking for that. They probably would even fight having it come on because I remember a similar suggestion where the money owed back to the Government in the case of food stamps, when I was a Member of the House of Representatives, the IRS was really fighting that, you know, and maybe even the administration at that time. So do you respond to it as just something socially beneficial and one way of enforcing a responsibility, I presume?

Mr. BARBER. Yes, sir, that's one answer. But there are others. First of all, it would be a little bit cavalier to say it, but they have in a sense already lost the argument when 6305 of the IRC was put in because even under that provision, albeit after you go through several bureaucratic hoops, collection of nonwelfare support through IRS is now at least theoretically available.

So this would simply simplify and streamline that procedure directing it at wage earners. But it's not just socially beneficial. As was found by the Washington Supreme Court in the *Johnson* case, it's also economically beneficial to the Government. IRS is, after all, the Internal Revenue Service, not just the tax service, and if we can keep down the leakage at the State, local, and Federal levels, revenue will be, in effect, enhanced. IRS, by performing a process serving a function, not really collecting but process serving, would materially enhance revenue in the end.

Senator GRASSLEY. One last short question, Mr. Chairman. What would you think, then, or the possibility of States or agencies paying IRS for this service in the sense of it is something unique. It benefits the States and the families as much as it would benefit a lesser welfare cost to the Federal Government.

Mr. BARBER. We're already stuck with a $120 bill on the use of 6305. If we could get this minimal service out of them as opposed to the full lien process under 6305 for a lower rate and less bureaucracy, I think it would be a bargain. I think it would save a lot of money, particularly in interstate cases.

Senator **Grassley**. Did any of the other three of you have any comments on any of the questions that he responded to?

Mr. **Abbott**. I would just make one comment. On the IRS intercept—not the full intercept—the cost last year was $17 per hit, this year it's going to be $11. So if we could work something out with the Internal Revenue Service where a nonexorbitant fee were charged, something in that neighborhood, I think that that would be very beneficial and I would concur with Mr. Barber's comments on his process. I think that would go a long ways in helping the program out, and the children ultimately.

Mr. **Copeland**. I'd like to just further support what Mr. Abbott is saying there, and the comment that you were asking about how would IRS view the intrusion of additional workload. I think part of what needs to be recognized is that while they do collect the taxes, they are also a service agency in that they have people coming in to figure out and understand what is their responsibility to government in general. Then once that's computed IRS' function in that regard is to enforce that obligation. Once the number comes out the end so to speak and it is determined that there is a refund available, then all of a sudden we're back into the different arena. In a sense that we're not looking at a service agency again, but we're dealing with the public, and the question is what do we do with the money? There's a number of people that ought to be given that answer and in some cases it shouldn't go to them. They should be told why rather than having it lifted away from them.

Mr. **Barber**. Senator, may I expand one more point? I had an occasion to chair a symposium of family lawyers in northern California last Saturday and raised just this proposal. It was the concensus of the group, primarily private practitioners who represent men and women as the cases walk in the door, that this would be an excellent way to deal with the interstate case problem where you already have a local order that rather than going through the convoluted procedures there, to be able to just lay up a lien against an individual's wages through IRS would be a lot quicker and protect their clients far better than what goes on now.

Senator **Grassley**. I thank Senator Long too for letting me take his place.

Senator **Durenberger**. Senator Long?

Senator **Long**. Let me congratulate you, Mr. Chairman, and the cosponsors who are involved in studying this area. This is an area where women, mothers and their children in particular, have been treated very badly. In this area where they have rights, the rights are meaningless because they just have not been enforced.

Generally speaking most agencies of government, when some wife comes in and reports that the father owes support to their children, just prefer not to be bothered. That is a complete tragedy. These mothers are suffering and trying to get some help, trying to look after the children, and government people are just looking the other way, preferring to have nothing to do with them because it might cost money.

I'm very pleased that you, Mr. Chairman, and the cosponsors of this bill, are going to take a look at this aspect of the problem, because there are fathers from one end of this Nation to the other who have a burden to support their children legally—and are not doing it. Some of them are bragging about the fact that they're not supporting them, almost proud of it, one would think. It's just not fair for these mothers and children to suffer in silence, to have people turn a cold shoulder or a deaf ear to their pleas when we have it within our power to provide them the resources to support their rights. These witnesses did, I think, very effectively testify about the aspects of problems from where they see it. I think that if it's no longer a local problem when fathers leave the immediate vicinity in order to avoid their responsibility, then another line of government should get involved. I'd like to ask the witnesses this: what percent of children do you suppose are going without child support where there is a father who could be providing substantial help to those children? Could you just give us some estimate as to about what that might be—what percentage of children we're talking about?

Mr. BARBER. Well, Census data says that about half are going without substantial support where there is a court order, but in about half the cases there is no order and at least 90 percent of those are going without support. So you're talking about, in all single parent households where there should be two parents paying support, you're talking, I would say, about 70 percent.

Senator LONG. That's 70 percent, and it's not all that hard to collect that support. It is better to assume that responsibility for collecting it starts at the local level, but when those fathers move across State boundaries, at that point it becomes a national problem. Is there any way to escape the fact it's a national problem when the fathers move across the stateline?

Mr. COPELAND. No, sir, it's not.

Senator LONG. We can communicate today across State boundaries as though the State boundary wasn't even there. We do it every day by telephone or other means of communication. We can even tune in and watch a tennis match being played in France or England, and our big corporations can communicate about business across State boundaries as though they hardly existed.

It can be done, it's just that we need to realize the importance of it in helping to collect child support. And it's about time that we recognize the importance of helping mothers obtain support for their children even when the family is not on welfare. After all, those mothers are taxpayers too. They're citizens of this country and they're protected by laws, but the laws don't mean a thing unless we have somebody to enforce those laws. We shouldn't have to take it out of somebody else's budget in order to be able to carry the burden of it. We ought to be willing to pay what it takes, to help see that the services are available, to help find these fathers. What you're testifying to here—you in particular, Ms. Hunter—is that we shouldn't have to prove that we're making money out of making a father support his children when the family is not on the welfare. We ought to simply deal on the basis that the mothers and the children have some rights.

Ms. HUNTER. Right. It's a service that needs to be done.

Senator LONG. It's almost as if a wife came in and she'd been beat to a pulp with her nose broken and her eyes black, and the sheriff then proceeded to say, "I'm sorry. We can't get involved in anything like that. That's domestic. Furthermore, I wouldn't make a profit out of that." But we have a duty to people and the law fixes the duty. It's just that we're not following through doing our part.

If you have to find some way to help pay for it, I'd say let us see if we can't fix these laws so that people convicted of crimes can get one trial and one appeal—not 10 different trials in the court. We could economize on that, and provide more resources to help mothers obtain for their children what is due under the law.

Thank you very much for your testimony.

Senator DURENBERGER. Thank you all very much. We are indebted to you. The hearing will be recessed until 1:30 this afternoon at which time we will have a five person panel. I think you all know who you are. We'll see you at 1:30.

[Whereupon, at 11:50 a.m., the hearing was recessed, to reconvene at 1:30 this date.]

AFTERNOON SESSION

Senator DURENBERGER. The hearing will come to order. I want to welcome the first of our afternoon panels, the fourth of our series of panels in these hearings on S. 888, the Economic Equity Act, and S. 19, the Retirement Equity Act of 1983. This panel will consist of Connie Bell, associate director, Greater Minneapolis Day Care Association; Helen Blank, Child Care and Family Support Services for the Children's Defense Fund; Dr. Elizabeth Boggs, consultant, the Association for Retarded Citizens; Carla Curtis, public policy analyst for National Black Child Development Institute; and Ann Muscara, president, National Association for Child Care Management.

I'd like to welcome all of the members of the panel who are testifying on this important issue of dependent care, and I particularly want to welcome Connie Bell who is from Minnesota. She is a member of my Women's Network in Minnesota, and was chairperson of my Day Care Subcommittee which developed the legislation on sliding scale and other types of modifications in the dependent care credit.

As I mentioned yesterday, Congress did make some progress in 1981 in the area of dependent care, but that action clearly did not go far enough as the representatives from the Congress who are here this morning admitted. We have to continue to assist those working parents with lower incomes attain high quality dependent care. I believe the dependent care provisions of the Economic Equity Act would greatly expand access to needed care. Homemakers and women who work outside the home face a frustrating succession of roadblocks that progressively steal the quality of economic opportunity that men take for granted. Those roadblocks must be removed and the Economic Equity Act is a critical beginning to that process.

If the panelists will come forward, we will proceed in the order of their introduction. Connie, I appreciate very much your coming out here and as I indicated in my statement, I deeply appreciate your help and your commitment over the years which in part I'm sure brings you here today.

Everyone's statement will be made part of the record and you may abbreviate it or deliver it in any way you see appropriate.

STATEMENT OF CONNIE BELL, ASSOCIATE DIRECTOR, GREATER MINNEAPOLIS DAY CARE ASSOCIATION, MINNEAPOLIS, MINN.

Ms. BELL. Thank you, Senator Durenberger, I want to thank you for your work on the sliding dependent care tax credit. It has been much appreciated. I want you to know that I am also here as a member of the National and Minnesota Associations for the Education of Young Children, the Minnesota Children's Lobby and the Minnesota Women's Consortium.

We in Minnesota were delighted that Congress saw fit to change the flat dependent care credit to a sliding credit in 1981. This change was conceptually an important breakthrough because it established the principle that those on the lowest end of the economic scale need more help than those on the higher end of the scale. However, with this improvement, the sliding tax credit still has some problems.

First, the amount of the slide, 30 percent for people at $10,000 income level, is not sufficient to provide enough help for low income persons to work off AFDC and title XX subsidized child care toward independence.

Child and dependent care: Child care costs are usually the third largest item in a family budget, following after food and shelter, and I have attached a chart to my testimony which indicates what a problem child care costs are in a low income person's budget. Child care for an infant in the Twin Cities can cost up to $4,000 a year. Child care for a toddler and a preschooler in the Twin Cities can cost up to $5,000. That is a hefty amount to fit into a low income or low-middle income working person's budget. We are seeing a return to the child care problems we tried to solve back in the early seventies. According to a study by the Center for Urban and Regional Affairs at the University of Minnesota, one fourth of the working AFDC mothers who became ineligible are now leaving their children home alone because they can not afford the cost of child care. This is a critical problem for those children and must be rectified. The tax credit can do much to turn that around.

Two-parent working families have also been affected. For example, one working couple, the C's, have a combined income of $850 a month. Of this, $250 a month goes to rent, $400 to gas, electricity, and telephone, and $200 a month goes to food. When they became ineligible for title XX subsidized day care, they tried to find another child care alternative within their ability to pay but found too expensive. Now their child is home alone after school and on vacation days.

Second, unless the sliding credit is refundable, it will not be helpful to low-income families.

Increasing the sliding tax credit and making it refundable would do much to help these families. Currently under this program if you do not have a tax liability or a minimal tax liability, you cannot claim the credit.

So this is an important provision that must be passed. Optimally the tax credit should be advance refundable to help the really low income people, but I don't see that happening in the current economic climate.

The next best alternative is to make it refundable. Minnesota has had a refundable tax credit in place since 1977. In 1981, 23,000 taxpayers claimed over $4 million in child care tax credits with 8 percent or $337,000 paid through the refund mechanism.

As a model for the Federal tax credit, the Minnesota credit has been working well and has been well received by the citizens of Minnesota. So we could suggest that that might be a successful model of what you're trying to put forth at the Federal level.

One aspect of the Federal dependent care sliding tax credit is that it appeals to people of all ages. Not only are women with young children helped, families with handicapped family members, and families with aging parents can also be helped.

More and more as women are entering the work force, they need help with dependent care, and this is an important way to do that.

Finally, access to affordable child care has been one of the major barriers for women entering the work force. In Minnesota, the percentage of the working mothers is even higher than the national average according to the Minnesota Council on the Economic Status of Women.

In 1980, 51 percent of mothers with at least one child under 6 and 68 percent of mothers with school age children were in the work force. The majority of these mothers are working out of economic necessity.

Female-headed families are an especially needy group. While they represent only 10 percent of all families in the State, they account for one-third of all Minnesota families in poverty.

For many of these women a refundable tax credit beginning at 50 percent for those at the lowest end of the scale will provide an important way to move from dependence to independence. In behalf of the working families in Minnesota, I urge you to pass this important piece of legislation. Thank you for your support.

Senator **Durenberger**. Thank you very much.

Helen Blank.

[The prepared statement of Ms. Bell follows:]

STATEMENT OF CONNIE BELL, ON BEHALF OF THE GREATER MINNEAPOLIS DAY CARE ASSOCIATION

Mr. Chairman and Members of the Senate Finance Committee:

My name is Connie Bell and I am the Associate Director of the Greater Minneapolis Day Care Association, the planning, coordinating and service agency for child care in the Greater Minneapolis area. I was the chairperson of Senator David Durenburger's Day Care Sub-committee which worked ~~long and hard~~ on the Sliding Dependent Care Tax Credit in 1981-82. I am currently a member of Senator David Durenburger's Women's Network, am a member of the National and Minnesota Associations for the Education of Young Children, the Minnesota Children's Lobby and The Minnesota Women's Consortium.

We, in Minnesota, were delighted that Congress saw fit to replace the flat dependent care credit with a sliding tax credit in 1981. This change was conceptually an important breakthrough, especially for low-income families working their way off government funding toward independence. This was a helpful first step, a step which established an important principle that working parents with lower incomes need more assistance with their child care and dependent care costs than those on the upper end of the tax scale. However, even with this improvement, the sliding tax credit still has problems.

1. The amount of the slide, 30% of child care costs at the 10,000 income level, is not sufficient to provide enough assistance for a low income family to gradually

move off the AFDC roles or Title XX subsidized child care to pay for all or a portion of child care costs. Child and dependent care for a low-income family is usually the third largest budget item after food and shelter. (See attached chart) Child care for one infant in the Twin City area can amount to over $4,000 a year in a center or $2,500 a year in a family day care home. A family with two children in child care - a toddler and a preschooler, for example - ~~can cost~~ may need to pay over $5,000 a year for child care. Unfortunately, we are seeing a return to the child care problems which we were trying to solve in the early 70's. According to a study on the impact of federal cuts on working AFDC recipients by the Center for Urban and Regional Affairs at the University of Minnesota, one fourth of the mothers surveyed are leaving their children home alone because they can not afford to pay the cost of child care.

Two parent families have also been affected. For example, one working couple, the C's, have a combined income of $850 a month. Of this, $250 a month goes to rent, $400 to gas, electricity and telephone, and $200 a month goes to food. When they became ineligible for Title XX subsidized day care, they tried to find another child care alternative within their ability to pay but found private care very expensive. Now their

child is home alone after school and on vacation days
until his parents return from work.

Increasing the sliding tax credit and making it refundable would do much to help such families in a way that is much more positive and less demeaning than dependance on subsidized day care through Title XX or AFDC.

2. Secondly, unless the sliding tax credit is refundable, it will not be helpful to the low income working family. Currently, if the low income working parent does not have a tax liability, the tax credit can not be claimed. Optimally, the tax credit should have an advance refundability provision although such a provision is probably unrealistic in the current economic climate. The next best way to help these low-income and low-middle income families is to make the tax credit refundable. It seems only fair and sensible that the tax credit should be available to those who need it most - low-income working families.

Minnesota has had a refundable child care tax credit in place since 1977. In 1981, 23,027 tax payers claimed over four million dollars ($4,153,533) in child care tax credits with 81[illegible]% or $337,000, paid through refund mechanism. As a model for the federal tax credit, the Minnesota credit has been working well and has received much support from lawmakers and citizens.

One aspect of the Federal Dependent Care Sliding Tax Credit, which makes it especially important and appealing, is that it can touch the lives of nearly every citizen. Although not all of us have children needing child care or have handicapped family members, all of us have aged parents who at one time or another will need our assistance. And as more and more women are entering the workforce, usually for economic reasons, the cost of dependent care for the elderly has become an increasing problem.

- One in ten middle-aged women between 45 and 65 have responsibility for an older relative.
- Almost 1 million women, aged 44 to 58, claim that the health of a family member limits their work.
- One out of eight retired women said that they retired because they were needed at home to care for dependents.

These women and their families will also be assisted by refundable sliding tax credit~~, as they fulfill their~~ responsibilities for their ~~loved ones~~ while working.

Finally, access to affordable child care has been one of the major barriers for women entering the workforce. In Minnesota, the percentage of working mothers is even higher then the national average according to the Minnesota Council on the Economic Status of Women. In 1980, 51% [redacted] of mothers with at least one child under six and 68% of mothers with children 6-17 years were working. The majority of these mothers are working out of economic necessity. Female headed families are an especially needy group. While they represent only 10% of all families in the state, they account for 1/3 of all Minnesota families in poverty. For many of these women, a refundable sliding tax credit beginning at 50% for those as the lowest end of the scale will provide an important way to move from dependence to independence. In behalf of working families in Minnesota. I urge you to pass this particularly important piece of legislation.

Thank you for your time and attention,

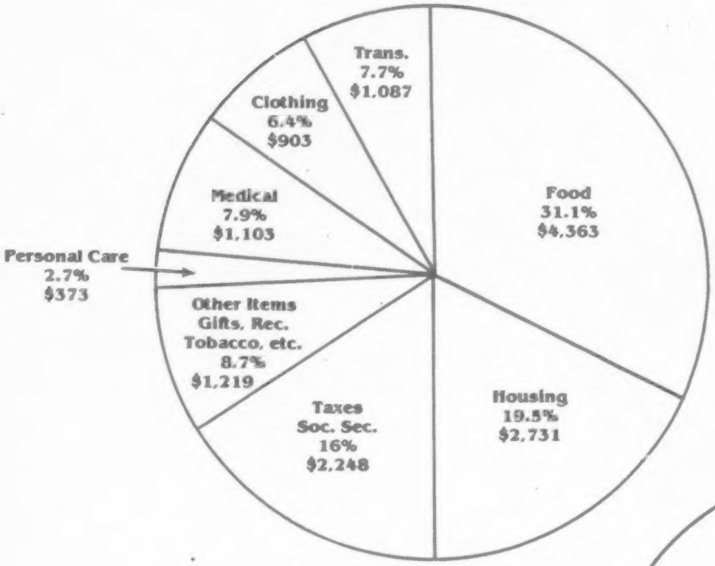
Connie Bell
Associate Director
Greater Minneapolis Day Care Assn.

June 22, 1983

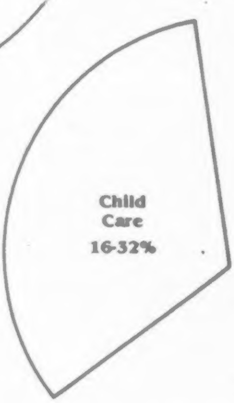
CHART I

FAMILY INCOME: WHERE DOES IT GO?*

(Lower Budget $14,027 Gross)



No Room For Child Care Costs



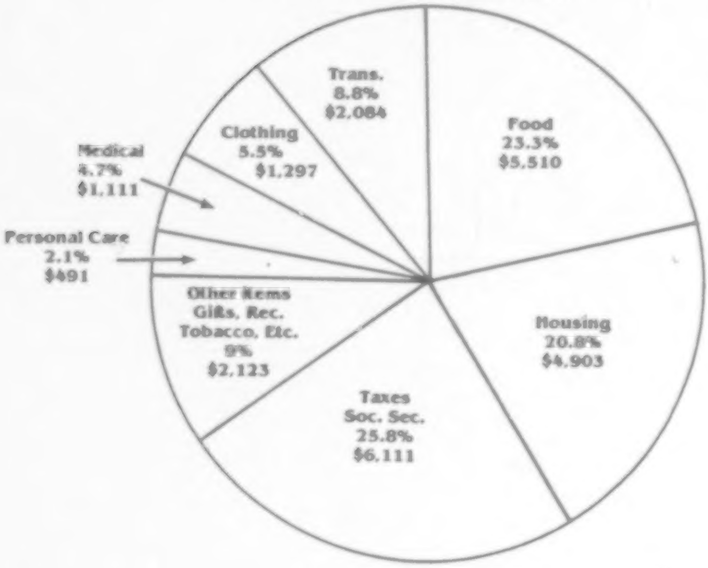
One preschool child in care
$2,000-$2,500
Approximately 16% of income

Two children in care
$4,000-$5,000
Approximately 32% of income

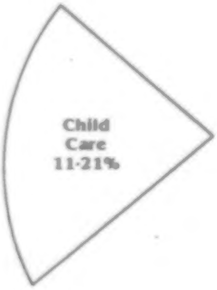
*Family of Four in Minnesota

Bureau of Labor
Statistics 1980

CHART II
FAMILY INCOME: WHERE DOES IT GO?*
(Intermediate Budget $23,630)



No Room For Child Care Costs



One preschool child in care
$2,000-$2,500
Approximately 10.5% of income

Two children in care
$4,000-$5,000
Approximately 21% of income

*Family of Four in Minnesc

Bureau of Labor
Statistics 1980

STATEMENT OF HELEN BLANK, CHILD CARE AND FAMILY SUPPORT SERVICES, CHILDREN'S DEFENSE FUND, WASHINGTON, D.C.

Senator **Durenberger**. Welcome, Helen.

Ms. **Blank**. Senator Durenberger, we too thank you for your continual support on both the dependent care issue and on the child care issue.

The dependent care provisions help a wide range of American families to better care for their own family members. CDF has joined with 43 other national organizations including all of the major elderly groups in a Multigenerational Coalition on Dependent Care. We represent constituencies at every stage of the life cycle and we share a common concern: the need for working families to get better support to meet their dependent care responsibilities.

Women obviously bear a disproportionate share of this responsibility. During their early work lives they must balance a job outside the home with responsibilities of raising a young family. After their children are grown they are often faced with two taxing jobs as they take on the burden of caring for their aging parents or their husbands. One in ten middle-aged women between 45 and 65 has responsibility for an older relative. Almost 1 million women aged 44 to 58 claim that the health of a family member limits their work.

In 1975 one out of eight women said they were retired because they were needed at home. Middle-aged women trying to reenter the labor force are caught in a particular bind. First, they are stymied from obtaining the necessary training for a new career. Second, they are stymied from getting the credits they need for their own social security and their own private pension so they can be independent in their later years. Displaced homemakers are obviously at a greater disadvantage.

It is more likely that middle-aged women are caring for other women. The average age of widowhood is 56. Obviously CDF is particularly concerned about the child care issues. Although personally I have gone through a long odyssey in the last several months working with many of the wonderful women in aging organizations who are concerned about the dependent care issue, at the other end of the spectrum, and have learned a lot about what this issue means to women all the way down the line.

The numbers of mothers on the child care side with very young children in the labor force is striking. Fifty-one percent of mothers with 2- and 3-year-olds are now working as well as 48 percent of mothers of 1-year-olds. Mothers are working because they have to. Two-thirds of the women in the labor force are sole providers or have husbands who earn less than $15,000. Many States, as a result of the severe cuts made in title XX in 1981, have stiffened eligibility criteria for the low income working mothers who would benefit from the expanded slide in refundability or raised fees beyond these families' ability to pay. They would be greatly helped by the expanded credit as well as an increase in the title XX ceiling.

Between 8,400 and 12,000 New York children of working poor families have lost child care in the past 2 years. The same families who have lost child care have been burdened with increased cost of school lunch, increased fees for school transportation, and other user fees. The result of the cutbacks are extremely painful.

We are alarmed at reports coming in such as Connie's from a number of States which indicate a disgraceful and unacceptable trend in terms of what's happening to our child-care system. Too many 3-year-old and 2-year-old children are being left alone. The child who was killed in California who was 5 years old is not atypical. We are hearing from too many States: Rhode Island, West Virginia, Kansas, New York, Minnesota that older siblings—older being children who are 8 years old—are being kept home from school to care for their younger children.

In 1981 when 739 West Virginia families lost care and a survey was done, they got reports back from 565 families. They found 391 children had been shifted to other care-givers, and they found that 79 children were being left alone. Both of the changes in the Equity Act are important. The expand is slight obviously to give families greater ability to purchase care.

Refundability is important, I'd like to point out, not only for families who have no tax liability. If you consider a family earning close to $15,000, a two-parent family with a child in preschool and a child in after school with $2,300 worth of expenses, they would lose $168 of an increased benefit—the benefit would be $460—if refundability was not put in place. The Senate has supported refundability twice in the past. We urge you to maintain a strong commitment to refundability.

We'd like to point out that the timing is right for the passage of these provisions. In tax year 1983, as Ms. Hawkins pointed out, there is going to be a line on the 1040-A, the short form, for the credit. Senators Durenberger, Packwood, and Dole were instrumental in helping push IRS along on that. For the first time the credit is really going to be accessible to lower income families. If you expanded the slide, you would make a meaningful change. We know this is a very difficult time, we know you're facing an increased deficit. But we believe that you can help many families now meet their dependent care needs and you can implement some sound public policy, not only insuring that our children, our future are cared for in more optimal child care arrangements, but also giving families additional help in caring for aging or disabled dependents. I'd like to point out that studies show that aging with kin are admitted to institutions at an older age and with greater impairments than elderly without kin. The changes are obviously cost effective. The changes will provide incentives for families to stay together, support each other, and remain in the work force as taxpayers. They're uncomplicated legislative provisions, but they're unique in their far-reaching effort and we hope that you will see fit this year to help all families through some very, very simple but useful changes.

[The prepared statement of Ms. Blank follows:]

STATEMENT OF HELEN BLANK, DIRECTOR, CHILD CARE AND FAMILY SUPPORT, CHILDREN'S DEFENSE FUND

SUMMARY

Working families with young children or elderly or disabled relatives share an important need - the need for support in caring for their dependents. Women bear a disproportionate share of this responsibility. During their early lives they must balance a job outside the home with the responsibilities in raising a family. After their children become independent, they are often still faced with two taxing jobs as they take on the burden of caring for their aging parents or husbands.

The improvements included in Title II of the Economic Equity Act - expanding the current sliding scale to 50 percent for families earning under $10,000 and making the credit refundable are equally important. The expanded slide would offer increased assistance to families. Refundability would allow them to take full advantage of the new benefit.

The Children's Defense Fund has joined with 43 other national organizations including the American Association of Retired Persons, and the National Association of Retarded Citizens in a Multigenerational Coalition on Dependent Care. We represent constituencies at all stages of the life cycle.

CDF is particularly concerned about the ability of the credit to help families meet their child care needs. Almost 46 percent of mothers with children under three are in the labor force as are almost 57 percent of mothers with children ages three to five. Yet, the supply of affordable child care lags so far behind the need that as many as 6 to 7 million children 13 years old and under, may go without care for significant parts of each day while parents work.

At the other end of the spectrum, one in ten middle-aged women between 45 and 65 has responsibility for an older relative. Almost one million women aged 44 to 58 claim that the health of a family member limits their work.

The dependent care provisions represent sound public policy. They help to insure that young children are placed in optional secure child care arrangements. At the same time, they allow families to care for elderly or disabled relatives reducing the incidence of costly institutional care.

Mr. Chairman, members of the Committe, CDF is a national public charity created to provide a long-range and systematic voice on behalf of the nation's children. We are organized into four program areas: education, child health, child welfare, and child care and family support services. We address these issues through research, public education, monitoring of federal and state administrative and legislative policies and practices, network building, technical assistance to national, state, and local groups, litigation, community organizing, and formation of specific issue coalitions.

We are heartened that the Senate Finance Committee has provided a forum to discuss the Economic Equity Act, and appreciate the opportunity to testify on the improvements in the Dependent Care Tax Credit included in Title II. These improvements expand the sliding scale to 50 percent for families earning under $10,000 and make the credit refundable. Title II also includes an important provision which would allow non-profit dependent care organizations to qualify for tax exempt status. This provision would cause no reduction in federal revenues but would remedy a problem for infant care and after-school care programs, many of which under current regulations fail to meet the requirement that they be operated exclusively for educational purposes. It is particularly difficult for infant care programs to demonstrate a "curriculum". After-school care is geared to children who have been "educated" during school hours and require a recreational and custodial situation.

Dependent Care - A Multigenerational Need

The Dependent Care provisions help a wide range of American families to better care for their own family members. They can also help both young and older families to work and contribute to the economy while avoiding the terribly high costs of institutional care for elderly or disabled family members. The Children's Defense Fund has joined with 43 other national organizations including the American Association of Retired Persons, the National

Association of Retarded Citizens, and the Association of Junior Leagues in a Multigenerational Coalition on Dependent Care. We represent constituencies at every stage of the life cycle and we share a common concern--the lack of adequate support available to struggling working families to help them meet their dependent care responsibilities.

Working families with young children or elderly or disabled relatives share an important need--the need for support in caring for their dependents. Women bear a disproportionate share of this responsibility. During their early lives, they must balance a job outside the home with the responsibilities in raising a family. After their children become independent, they are often still faced with two taxing jobs as they take on the burden of caring for their aging parents or husbands. The Dependent Care Tax Credit can offer families even more help in meeting the caregiving needs not only of children and elderly relatives but also of disabled dependents.

The Need for Child Care is Critical for Young Families

CDF is particularly concerned about the ability of the credit to help families meet their child care needs. The supply of affordable child care now lags so far behind the need that as many as 6 to 7 million children 13 years old and under, including many preschoolers, may go without care for significant parts of each day while parents work. As more and more parents of young children work, child care needs will become even more of a problem.

- Almost 46 percent of mothers with children under three are in the labor force.
- Almost 57 percent of mothers with children ages three to five are in the labor force.
- By 1990, at least half of all preschool children, 11.5 million, will have mothers in the labor force, as will about 17.2 million, or 60 percent, of all school-age children.

The need for infant care is steadily climbing. At the other end of the spectrum, the lack of after-school programs and funding for low-income children leave millions of school-age children as young as six waiting up to four hours a day in empty homes or in school yards until parents return from work.

Mothers work because of economic necessity. Two-thirds of the women in the work force are either sole providers or have husbands who earn less than $15,000. Almost one in six American families is headed by a woman. Over one-third of one-parent working families, most often headed by women, live below the poverty level. A mother in Massachusetts talks about the importance of child care to her ability to work:

> "Things are very difficult for me financially right now, but I'm glad I have not lost my day care totally, as I thought I might at one point last year. I need day care so I can work and attend school. Even though the incentive is not there to work, I felt trapped in the welfare system. Day care has given me the freedom to get an education so that I can get employment and some day get totally out of the welfare system."

Secretary Margaret Heckler while testifying before this Committee shared this mother's sentiments: "Availability of adequate day care is an essential element if welfare mothers or others with young children are to work".

Lack of affordable child care is a major factor in keeping women and children in poverty. The U.S. Commission on Civil Rights notes that the inability to locate affordable child care restricts not only women's employment and training opportunities but also their ability to participate in federally supported education programs. A number of studies have shown that approximately one of every five or six women is unemployed because she is unable to make satisfactory child care arrangements. Who's Taking Care of Our Kids, a recent survey on child care arrangements in Utah, revealed that 46 percent of unemployed mothers who were interviewed said they would work if quality child care were available.

The United States has always had a patchwork child care system. Since 1981, it has been rapidly unraveling. In Fiscal Year 1982, the Title XX Social Services Block Grant, the largest source of direct support for child care, had its funding reduced from $3.1 billion to $2.4 billion, a 21 percent cut. A targeted $200 million for child care and a separate training program were also eliminated. The Child Care Food Program was cut by 30 percent.

The amount of child care costs that families can be compensated for under Aid to Families with Dependent Children (AFDC) program was limited. Finally, many child care programs lost critical staff when the Public Services Employment component of CETA was eliminated.

Budget Cuts Deny Assistance to Working Families

Federal, state, and local budget cuts have placed great strains on child care centers and family day care homes already receiving fragmented and inadequate support. In order to keep their doors open, some child care centers have begun to serve fewer low-income children and families. New policies have eliminated child care for these families or resulted in fees that poor families cannot pay. Centers have switched to a greater number of higher income families who can pay. A state day care administrator comments: "Programs are taking fewer subsidized children and more whose parents can afford to pay privately for their care. Instead of taking ten state-funded children, they are taking two." This pattern can be seen across the country.

- In January 1980, two child care centers in Black Hawk County, Iowa, served a total of 42 fee-paying children and 58 poor children subsidized under Title XX. In November 1982, the centers served 69 children whose parents paid full costs and only 42 children who received Title XX assistance.

- In Wilmington, Delaware, the Salvation Army opened a center to serve the children of working poor families. Recently, it faced the prospect of closing because of dwindling enrollment. About two-thirds of its children used to be subsidized by Title XX; now only about one-third receive subsidies.

- A Grand Rapids, Michigan, day care center used to serve 55 children, all of whom received public subsidies. Now the center serves 31 children, none of whom receives a subsidy.

Many states, as a result of funding cutbacks, have severely diminished child care support for mothers enrolled in training programs or stiffened eligibility criteria so that subsidized child care is no longer available or too costly for lower-income working families.

- Between 8,400 and 12,000 New York State children have lost day care purchased for them by public funds between 1981 and 1983. The day care losses have directly hit the working poor. Since 1981, nine counties have totally eliminated Title XX subsidies to these families. There are now 34 counties in New York with no subsidy for non-AFDC working families.
- Arizona, Massachusetts, Kansas, and Pennsylvania have stiffened their eligibility criteria for child care, denying help to many working families.

These same families have been burdened with increases in the costs of school meals, user fees for school transportation, and other services.

Children are Being Shifted to Less Supportive Child Care Arrangements

The results of federal, state, and local cutbacks in child care for women who are struggling to improve their family's situation through employment or training are extremely painful.

Children are being left alone or have been switched to less familiar, and often less supportive, child care arrangements.

- A survey of selected families indicates that the loss of subsidy in New York State has resulted in increased numbers of children left alone. A state study of Westchester County concluded that the loss of day care increased risk of maltreatment or neglect. Some parents chose to leave work altogether and to go on welfare rather than to neglect their children. Many struggled to pay the fees of centers, often unsuccessfully. Others placed children into the care of older siblings. Still others were forced into inadequate babysitting arrangements where nutrition, stimulation, and child development were lacking. For some children, arrangements are sporadic, resulting in harmful shifting from caretaker to caretaker. It is estimated that at least one-sixth of children affected by funding cuts are regularly left unsupervised.
- The Johnson County, Kansas, Day Care Association sent a questionnaire to the county's day care providers after many children lost Title XX child care subsidies. They found that 17 percent of the parents had quit work, 10 percent of the children had been taken to unlicensed day care arrangements, and 7 percent of the children were not receiving any care while their parents worked.

- In 1981, 739 West Virginia families lost child care. Some 565 of these families responded to a questionnaire regarding their current child care arrangements. A total of 391 children had experienced some type of change in child care arrangements. At least 79 children were caring for themselves.
- A Rhode Island child care center, located in a public housing project, had 22 children enrolled last year. Five children remain. The director reports that some children are being cared for by teenaged high school dropouts; others she watches hanging out on the nearby playground.
- In Pittsburgh, a combination of Pennsylvania policies--including tighter eligibility criteria and fees for services--resulted in over 200 children losing child care services, 10 percent of the total number being served. Some parents quit work. One parent commented, "I'm forced to leave my child in the care of an unlicensed babysitter whom I don't trust as much as the licensed day care provider." Another mother says, "My children are no longer with me because I couldn't find day care. The children are with their grandparents." Many older children have been forced to stay home from school to care for preschool brothers and sisters.

The need for additional child care assistance to working families is highlighted by the waiting lists for Title XX slots in three states: Georgia includes over 5,000 families, Massachusetts has approximately 6,000 on their list, and Florida has 4,000 families who need help in meeting their child care needs. An expansion of the Dependent Care Tax Credit along with an increase in the Title XX Ceiling would help many of these families.

Women Continuously Face Dependent Care Responsibilities

Once children are grown, women are still faced with dependent care responsibilities. One in ten middle-aged women between 45 and 65 has responsibility for an older relative. Almost one million women aged 44 to 58 claim that the health of a family member limits their work. Moreover, in 1975, one out of eight retired women said that they were retired because they were needed at home.

Middle-aged women trying to re-enter the labor force after taking time out to care for their children find themselves caught in a particular bind. If they cannot obtain help in caring for their older parents, they cannot move ahead to go back to work. Firstly, they are stymied from obtaining the necessary training for a new career. Then it is more difficult for them to hold down a job long enough to develop sufficient credit for Social Security and contributions to private pension funds, which would protect them in their own retirement years. Displaced homemakers are obviously at an even greater disadvantage.

It is also more likely that these middle-aged women are caring for women. The average age of widowhood is 56; there are over twice as many women who are over 85 as men.

Families with Disabled Relatives Could Benefit

Another group who would benefit from the changes in the dependent care credit are families with disabled relatives. Because these dependents often require costly special services and equipment, those caring for them have a great need to earn income. Despite the importance of appropriate care, families find it exceedingly difficult to locate such care for the estimated 500,000 handicapped children under 6 in this country as well as the 4.2 million school-age children with handicaps. Additionally, there are some 8.4 million severely disabled adults (aged 18 to 64) who are living in families with at least one other adult. Help in meeting the expenses of care for these children and adults could make it possible for other family members to enter the labor force and better meet their entire families' needs.

How Additional Help can be Provided to Families

In 1981, Congress replaced the previous flat rate credit for dependent care with a sliding scale that focused the maximum benefit of the credit on lower-income households. The scale allows a 30 percent credit for work-related dependent care expenditures up to $2,400 for taxpayers with incomes of $10,000 or less; the credit is reduced by one percentage point for each $2,000 of income between $10,000 and $28,000 to a minimum of 20 percent.

Currently, a family earning $10,000 a year would have to pay $2,400 per year, nearly one-fourth of its income, to receive the maximum credit of $720. In this case, dependent care would represent an out-of-pocket expense of 17 percent of income. However, lower-income families can afford to pay no more than 10 percent of income for dependent care expenses. The average cost of center-based child care for children ages three to five ranges from $2,200 to $3,200 per child; family day care costs range between $1,200 and $2,200 per child.

Both of the changes in the Equity Act, which are also included in S.1359, are important. The expanded slide would offer increased assistance to families. Refundability would allow them to take full advantage of the new benefit. Refundability is critical not only to enable families with no tax liability to utilize the credit but also to allow those with limited tax burdens full access to the credit. Consider a two-parent household with two children earning $14,999 a year. They have child care expenses of $2,300; one child is enrolled in a full day program while an older child benefits from an after-school program. This family would receive an increased credit of $460 if the sliding scale were expanded. Without refundability, they would lose $168 of their new benefit.

This is an Opportune Time to Improve the Credit

The timing is ripe for the passage of these dependent care provisions. In tax year 1983, for the first time, a line for this credit will appear on the 1040A short form. This is a key change. It will make the existence of the credit much more meaningful for lower-income families, the majority of whom use a short form. Up until last year, 1040A filers did not even receive a notice of the credit's availability in their tax packets. It will now be significantly easier for these families to utilize the credit and to receive new help from the expansion contained in Title II of the Economic Equity Act.

We recognize the difficult choices that the Congress must make in light of the pressure to reduce the increasing deficit. However, the improvements in the Dependent Care Credit represent sound public policy. They will help families to insure that their children - and our future are cared for in more optimal child care arrangements. Simultaneously, they will give families additional help in caring for aging or disabled dependents, reducing the extraordinary costs of institutional care. Studies show that older persons with kin are usually admitted to institutions at a more advanced age and with greater impairment than institutionalized elderly without kin, indicating that relatives can provide support to minimize costly institutional care. Yet, adequate support is not available to families who want to take on the responsibility of home care. The changes in the Dependent Care Tax Credit will provide rationale fiscal incentives for families to stay together, support each other, and remain in the work force. These uncomplicated legislative provisions are unique in their far-reaching effects.

We hope that Congress will take this unusual opportunity to create a support system that strengthens families and assists family members of all generations.

Senator **Durenberger**. Thank you. Before I introduce Dr. Boggs, because both the last two witnesses have referred to this, that the American Association of Retired Persons wanted also to be on this panel today, but they had been on a panel yesterday and we decided one panel is enough in 2 days, I guess. But I think they have felt very strongly in favor of the dependent care credit for a lot of the reasons that both of the first two witnesses indicated. So their absence from the panel is in no way reflective of the concern of elderly Americans for the need for this legislation.

Our next witness will be Dr. Elizabeth Boggs who is here to represent the Association for Retarded Citizens. Welcome.

STATEMENT OF DR. ELIZABETH M. BOGGS, MEMBER, GOVERNMENTAL AFFAIRS COMMITTEE, ASSOCIATION FOR RETARDED CITIZENS

Dr. **Boggs**. Thank you, Senator.

Obviously able-bodied family members, men or women, work for a variety of reasons and when that work involves the necessity for providing care for a dependent, it becomes a charge against the work, as you are recognizing in these proposed amendments. We obviously support the liberalization for the same reasons that the other witnesses do. To go beyond that, however, I think that in dealing with the issue of support of credits for the care given to disabled family members, it's necessary for us to stress that those costs generally exceed the costs of care for a child who is normally developing, and therefore, this whole matter is of interest to middle income as well as lower income families.

Minnesota has been traditionally rather expert at assessing the actual cost of maintaining a child who is handicapped in some way. You have had a system for providing in your child welfare system for additional child care payments in that setting, and we're very grateful to the Congress for having seen to it that the IRS invade those grants.

I raise this point because I think that it is very clearly documented that these additional costs do occur. Therefore, increasing the percentage is possible for the parents to take as a credit.

Senator **Durenberger**. The Congress would not have acted if Minnesotans hadn't brought the problem to the attention of their Senator, which is the way all of these things get resolved sooner or later.

Dr. **Boggs**. We are absolutely aware of that, and the Association for Retarded Citizens was quite interested in promoting that particular piece. At any rate, I take it as evidence of what I'm saying, and it is documentable additional costs whether the dependent is a child or an older person or a spouse, as indicated in the act.

I think that we would like to go a step beyond that and point out that there really is a need at this point to develop a compatibility between this legislation, these provisions which are directed particularly to enabling people to work, and the provision for medical deductions. The definition of what's deductible for medical purposes does not include the kind of care we're talking about: The personal care, the maintenance of the individual, the personal services that are necessary in the absence of a family member. In our written testimony we have suggested to you that a compatibility between these two different kinds of tax provisions would adapt itself on the one hand to needs of working families of relatively modest income, and on the other hand would recognize that in some families it's just not possible for everybody to work, but that there are occasioned expenses in connection with that which could be properly handled through the medical deduction given the percentage threshold to that deduction incorporated in the recent amendment.

So we would like to see you go ahead with the provisions in the Equity Act. We would also like to see you review the connection that this has—the interaction it has with the medical deductions. Thank you.

[The prepared statement of Dr. Boggs follows:]

STATEMENT OF ELIZABETH M. BOGGS, PH.D., MEMBER GOVERNMENTAL AFFAIRS COMMITTEE, ASSOCIATION OF RETARDED CITIZENS

The Association for Retarded Citizens (ARC) would like to make specific recommendations to the Finance Committee with regard to dependent care tax credit/tax deduction provisions. Because the ARC membership includes many parents, we are keenly aware of the needs of families with physically and mentally disabled dependents. The purpose of our testimony is to ensure that families who keep their disabled dependents at home are not penalized by the tax system relative to those families who arrange round-the-clock, out-of-home care for their disabled dependents. We also seek better coordination between the dependent care tax credit and the medical and dental expense care deductions.

If enacted, our recommendations will assist more families to care for their disabled dependents at home thus solidifying the role of disabled individuals in the family and reducing the number of individuals who are institutionalized. In this respect our posture is congruent with that of the Administration. Specifically, the ARC endorses two proposed changes in the dependent care tax credit provisions contained in the Economic Equity Act: 1) expansion of the sliding scale for the dependent child care tax credit from 30 percent to 50 percent for families with income at $10,000 or below; and 2) refunding the dependent care tax credit so that families can receive cash payments when their incomes are too low to pay taxes or the credit exceeds their tax liability. Our reasons for the above changes as they extend to all families are consistent with testimony the Finance Committee has received from various child advocacy organizations. Because our particular interest and expertise concerns disabled individuals, we will restrict our discussion to the tax provisions as they relate to disabled dependents.

Our rationale for the above recommendations is a straightforward one: the expense of providing care to a disabled dependent (and particularly a severely disabled dependent) at home is not adequately addressed by the present tax credit system.

A recent survey of the impact of a handicapped child on families (Moore, Hamerlynck, Barsh, Speiker, and Jones, 1982) revealed that 44 percent of the parents sampled could not afford the special therapy their child needed. It also revealed that middle income families faced as many financial problems in caring for their disabled child as low-income families because they are frequently not eligible for free services. As one father in the survey wrote:

> "I think it is a shame the state helps people who have foster homes for these children and Social Security will pay, but they won't help the parents who want to keep and love their handicapped child. It seems as if we are being punished for keeping our children. There is no financial help unless you are on welfare or give your child up. Otherwise, the rest of the family does without." (p. 69)

We support the liberalization of the work-related/dependent care tax credit for the same reason as do other witnesses. This credit has been (properly) targeted on the family of modest income where able-bodied adults are wage earners. In addition, we wish to call attention to the fact that the cost of home care for a disabled person of any age who, in the language of IRS publication 503, "...is physically or mentally not able to care for himself or herself" is likely to be greater for the family than the cost of care of a normal child under fifteen. For this reason the cost can impact heavily on families of middle and even upper income status.

These costs may be measured in dollars laid out but can also properly be measured by the burden of care on one or more family members. There is research to support the contention that where "constant attendance" is required for a disabled person and this care is provided within the family without paid assistance, the burden usually falls very heavily on one member who remains out of the labor force and whose own life activities are very circumscribed by these responsibilities. Where this responsibility is long term - extending beyond six months or so - it can impose real deprivation and social isolation for the care giver, of the very kind that we seek to avoid for disabled persons by keeping them "in the community," (Bayley, 1973, Voysey, 1975).

In recognition of this burden, most developed countries have already included within their Social Security systems a provision for paying a "constant attendance allowance" (which is not means-tested) to families caring for a disabled child or adult member (Parrott, 1982). While the United States may not be ready for this step, we believe it is timely here to provide an unambiguous tax incentive for various forms of intermittent respite care and supervision provided by a paid attendant or agency for a disabled person maintained at home, even when no nursing care is required and even though the expenses are not related to employment of an able-bodied family member. We recommend, therefore, that the medical deductibility of such expenses be affirmed in a way which alters the present interpretation as indicated in the following language quoted from IRS publication 502:

> "You may include in medical expenses wages and other amounts you pay for nursing services, including an attendant's meals you pay for...if the attendant also provides personal and household services, these amounts must be divided between time spent in performing household and personal services and the time spent on nursing services. Only the amount spent on nursing services is deductible."

Realistically for mentally retarded and indeed many personally dependent physically handicapped persons, what is made necessary by the disability is precisely personal care (assistance in dressing, eating, mobility, etc.) and related matters, such as meal preparation, transportation and escort services, which the dependent cannot perform for himself/herself because of his/her disability. These are essential needs in addition to or even instead of nursing.

The importance of these "social services" in avoiding unnecessary institutionalization has been recognized under the so called "community care waiver," (Section 2176 of Title XIX) which was enacted as part of the Omnibus Reconciliation Act of 1981. In the case of a disabled person who for one reason or another may not have access to care under the waiver, we believe that a medical deduction for disability related personal care and social services (such as are allowed under the waiver) should be allowed to those middle and even upper income taxpayers who pay for these services for themselves or their spouses or dependents out of their own income. The recently enacted increase in the threshold for medical deductions (5 percent of adjusted gross income) protects the public against irresponsible use of this provision and assures that the middle or upper income family will itself pay an appropriate share of the excess cost. Since allowable cost will not include basic maintenance, the deductibility will be less than if the family should avail itself to out-of-home care in a medical facility.

Each family will have an option to choose the dependent care credit or the medical deduction depending upon its own circumstances, with personal care and supervision recognized in either case.

FAMILY PROVISION FOR FUTURE CARE

The foregoing testimony relates to the need for annual tax incentives available to families as cost of care incurred. We also wish, however, to bring your attention to the need to permit families to avail themselves of some tax advantages when and if they make provisions for future care of handicapped persons. The medical deductibility of a future contract is not sufficient for this purpose.

To this end, we are proposing an amendment to permit an Individual Retirement Arrangement (IRA) to be established by a working taxpayer on behalf of his/her adult dependent who may be disabled so early in life as to be unable to acquire significant pension benefits on their own work records or to establish IRA type plans for themselves.

The Social Security Act, which provides benefits to adult disabled children on the death, retirement or disability of a covered parent, limits the levels of those benefits so that they are less than the disabled individual might have qualified for had he/she been able to work over his own working lifetime in covered employment. On the other hand, such benefits may exceed the current levels payable to him/her as a disabled person under Supplemental Security Income (SSI). The loss of SSI and its correlate Medicaid, may leave disabled persons exceptionally vulnerable. The parents of such individuals often desire to make more substantial provisions for their sons and daughters but find it difficult to do so, given the bite of income taxes. Consequently, permitting an IRA to be established for adult disabled children and spouses will promote self-sufficiency and give familes an affordable avenue to save for the support of their adult disabled dependent after their own retirement or death.

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Senator **Durenberger**. Thank you very much. Our next witness will be Dr. Carla Curtis, representing the National Black Child Development Institute. Welcome.

Ms. **Curtis**. Thank you, Senator Durenberger. I feel I have to say that unfortunately "doctor" is not appropriate at this time but I hope that it soon will be.

Senator **Durenberger**. Well, you can come on back after it's appropriate then. [Laughter.]

Ms. **Curtis**. I'd also like to say that when you are part of such a distinguished panel as this and speaking on the same issues, some of your information may have already been presented. I hope you will bear with me.

Senator **Durenberger**. I have to ask you to try to get that mike centered a little better. Then you won't have a problem.

STATEMENT OF CARLA CURTIS, PUBLIC POLICY ANALYST, NATIONAL BLACK CHILD DEVELOPMENT INSTITUTE, INC., WASHINGTON, D.C.

Ms. **Curtis**. I'm pleased to have the opportunity to testify on behalf of the National Black Child Development Institute and the Ad Hoc Day Care Coalition in support of Senate bill 888, title II of the Women's Economic Equity Act.

The National Black Child Development Institute is a national membership organization dedicated to promoting the healthy development of black children. We have 32 affiliates nationwide. The black families we represent are, for the most part, urban, low-income working people who want to provide a good life for their children. Contrary to popular belief, the majority of black families are working families, and as such require quality child care.

The Ad Hoc Day Care Coalition represents a nucleus of child care advocates who meet on a regular basis to share strategies designed to protect and improve the existing programs which support child care. We also assess longer range proposals for comprehensive national child care programs and specialized bills on employer sponsored child care, after-school care, and the information and referral services for child care.

A growing number of statistics that have been shared previously suggest that among American families, and for black families in particular, work-related child care is a must. The changing structure of the American family coupled with the current economic trends necessitate the strengthening and expansion of child care support systems.

The increase in the divorce rate is one of the most significant social trends in America. This, along with increased marital separation and the growing number of births among teenagers, has resulted in a significant increase in the number in proportion of women with no husband present heading households. In 1980, female headed families were approximately 10 percent of all families. By 1981 this figure rose to 20 percent.

It is now estimated that 50 percent of all children can expect to live with one parent for a significant portion of their lives. In the black community 48 percent of all families are maintained by females, but when we look at those families living below poverty, that number increases to 70 percent. Regardless of why parents are single, female householders earn less than male householders. Women with children but no husband present may lack economic resources of husband-wife families for a variety of reasons such as the lack of child support, the lack of marketable skills, and job discrimination.

Single fathers also require support in providing care, and recent studies suggest that the number of fathers heading households alone is also growing. More than one-fourth of all children currently live in households with income below 125 percent of the poverty index. However, again, looking in the black community, 31 percent of all black families with children present live below the poverty level. One study found that between 17 and 23 percent of all mothers with preschool children neither working nor looking for work would be willing to work if affordable child care were available.

Half of all married women with children under 6 are now in the labor force. The children of these women doubled between 1960 and 1980, and it is projected that by 1990 the number of children of these women will reach 10 million. In 63 percent of all black two-parent families, both parents work. And among women with a child under the age of 1 year, 31 percent of currently married women and 40 percent of other women are in the labor force. For many parents the child care arrangements that they do have are not satisfactory for them. Many children are left to care for themselves for long periods of time during the day, and this phenomenon, referred to as "latchkey" child care, is quite prevalent. At the recent policy forum of the Senate Caucus on Children, the number of children 13 years and younger who are left to care for themselves was guestimated to be as high as 15 million.

Simply stated, many families cannot pay the cost of making child-care arrangements for children during nonschool hours, and in relatively few communities where school age child-care programs exist, the cost of such care often exceeds the family's ability to pay. As we look to the future, the problems associated with providing an adequate supply of affordable quality care for families in need of such care are worsening. Projections on the use of formal care arrangements in the next decade suggest increased difficulty in locating adequate child care arrangements, especially in family day care home settings.

These statistics and information certainly establish the need for expanding Federal financial support both direct and indirect for child care services. Speaking specifically to the provisions of S. 888, title II, the Equity Act would expand the sliding scale to 50 percent for families with income $10,000 or below, make the credit refundable for low-income families, and enable nonprofit organizations providing work-related child care to be eligible for tax exempt status.

Briefly I'd just like to say that in relationship to the refundability clause, we are especially supportive of this measure because as under current law, all families are not able to use the tax incentive as a means of supporting their child care costs. The refundability clause as it currently exists really penalizes or blames the victims of low-income status and finally the provision related to making tax exempt status available for infant and school age child-care programs in particular, we feel, is important because if the Center files for tax-exempt status currently and states that its primary purpose is "to provide child care," they will most likely be denied that status by the IRS.

Senator Durenberger. Thank you very much. Our fifth panelist is Ann Muscari, the President of the National Association for Child Care Management.

[The prepared statement of Ms. Curtis follows:]

STATEMENT OF CARLA MICHELLE CURTIS, NATIONAL BLACK CHILD DEVELOPMENT INSTITUTE, WASHINGTON, D.C.

To the members of the Senate Finance Committee, I am pleased to have this opportunity to testify on behalf of the National Black Child Development Institute and the Ad Hoc Day Care Coalition in support of Senate Bill 888, Title II, of the Women's Economic Equity Act, sponsored by Senators Durenberger, Packwood, Hatfield, Hart and others.

The National Black Child Development Institute is a national membership organization dedicated to promoting the healthy development of Black children. We have 32 local affiliates nationwide. The Black families we represent are, for the most part, urban, low-income working people who want to provide a good life for their children. Contrary to popular belief, the majority of Black families are working families, and as such, require quality child care.

The Ad Hoc Day Care Coalition is a nucleus of child care advocates who meet on a regular basis to share strategies designed to protect and improve existing programs which support child care. We also assess longer range proposals for comprehensive national child care programs and specialized bills on employer sponsored child care, after-school care, and child care information and referral services.

Child Care Need

A growing number of statistics suggest that among American families, and for Black families in particular, work related child care is a must. The changing structure of the American family coupled with current economic trends necessitates the strengthening and expansion of child care support systems.

The increase in divorce is one of the most significant social trends in America. This, along with increased marital separation and the growing number of births among unmarried teenagers, has resulted in a significant increase in the number and proportion of women, with no husband present, heading households. In 1960 female headed families were 10 percent of all families; by 1981 close to 20 percent of all families with children under 18 years were headed by females (U.S. Department of Commerce, 1981).

It is now estimated that 50 percent of all children can expect to live in a one-parent household for a significant portion of their lives. In the Black community we know that 70 percent of all families living below the poverty level were maintained by women in 1981. Regardless of why they are single parents, female householders earn less than male householders (Pearce & McAdoo, 1982). Women with children but no husbands may lack the economic resources of husband-wife families for a variety of reasons such as lack of child support, lack of marketable skills, or job discrimination. Single fathers also require support in providing child care, and recent statistics suggest the number of single parent families with the father as head of the household is growing.

More than one fourth of all children live in households with income below 125 percent of the poverty level ($9,000 for a family of three) according to the Congressional Budget Office. However, again looking at the Black Community, 31 percent of all Black families with children present live below the poverty level (Bureau of Census, March 82 Survey). Lack of affordable child care is a major factor in keeping women and children in poverty and out of the work force. One study found that between 17 and 23 percent of mothers with preschool children neither working nor looking for work would be willing to work if work and affordable child care were available (U.S. Department of Labor, 1977).

Almost half of all married women with children under 6 are now in the labor force. (Department of Commerce, Bureau of Census 1982). This number doubled from 2.5 million to 5 million between 1960 and 1980. The children of these women totaled 7.5 million between 1960 and 1980 and are projected to reach 10 million by 1990. In seventy-three percent of all Black two parent families both parents work (Bureau of Census, March 82 survey). Among women with a child under 1 year, 31 percent of currently married women and 40 percent of all other women are in the labor force (U.S. Department of Commerce, 1982).

Even when mothers are working outside the home, not all of them have made satisfactory child care arrangements. Many children are left to care for themselves for periods of time during the day. There are various estimates of the number of children who must care for themselves while their parent(s) must work. Recent testimony provided before the Senate Caucus on Children suggests this number may be as high as 15 million children, thirteen years and younger. This widespread phenomenon, referred to as "latchkey" child care, occurs because for many families this is their only option. Simply stated, many families cannot pay the cost of making child care arrangements for children during non-school hours. In the relatively few communities which have school-age child care programs, the cost of such care may exceed the families' ability to pay.

As we look to the future, the problems associated with providing an adequate supply of affordable, quality child care for families in need of such care are worsening. Projections on the use of formal care arrangements in the next decade suggest increased difficulty in locating both sitters, and family day care homes. As more women enter the labor force, it is likely that the pool of child care providers will decline (Hofferth, 1979). For parents forced to use formal center based care, the cost of care to the family will certainly increase.

Average Child Care Costs

Children under 2 years - Group or Center care rates are $3,000-$5,000 per child annually and Family Day Care costs range between $1,800-$2,000 per child.

Children 3 to 5 years - Group or Center care ranges from $2,200-$3,200 per child while Family Day Care costs between $1,200-$2,200 per child.

School Age Child Care - $10-$50 per week depending on the program's sources of financial support.

Senate Bill 888, Title II, Sections A, B and C

These statistics and information certainly establish the need for expanding federal financial support systems - both direct and in-direct, for child care services. However, I would like to address the specific aspects of Senate Bill 888, Title II, of the Women's Economic Equity Act concerning the Dependent Care Credit Amendments. These amendments would strengthen provisions designed to ensure that a portion of the nation's tax incentive is effectively targeted toward the safe care of its children and the development of its work force.

Senate Bill 888 would expand the current Dependent Care Tax Credit which in 1976 was changed from a basic tax deduction to a nonrefundable credit. In 1981, Congress replaced the flat 20 percent credit with a sliding scale designed to focus the maximum benefit to lower income families. Under current law a taxpayer is allowed a tax credit for employment related expenses incurred for the care of a dependent child, disabled dependent, or spouse. The maximum credit is 30 percent of expenses up to $2,400 for one child (up to $4,800 for a maximum credit of $1,400 annually for 2 or more children) per year in the case of taxpayers with adjusted gross income of $10,000 or less. This means that a family must expend nearly a fourth of its income to receive the maximum credit ($720). The rate of the credit currently is reduced by one percentage point for each $2,000 of income, or fraction thereof above $10,000 until the lowest rate of 20 percent is reached for taxpayers with incomes above $28,000.

The Economic Equity Act would expand the sliding scale to 50 percent for families with incomes at $10,000 or below; make the credit refundable for low income families with no tax liability; and enable non-profit organizations providing work related child care to be eligible for tax exempt status.

First, if the sliding scale were increased it would facilitate increased purchasing power of quality child care services as contrasted with cheaper and inadequate arrangements. Parents may be more likely to choose care of higher quality.

The cost of child care services during the past several years has increased with other categories of service. In some areas child care costs well exceed $130 a week for infants in both centers and family day care homes; over $50 a week for preschoolers and $40 a week or more for before and after school care for school age children (School-Age Child Care Project, Wellesley, Massachusetts, 1981). Many parents could certainly benefit from increased relief for the enormous financial burden of paying for child care.

Second, the credit would be made refundable for low income families who haven't enough tax liability to offset the credit. According to the report, "Tax Expenditures: Relationships To Spending Programs and Background Material on Individual Provisions" (1982), prepared for the Committee on the Budget, United States Senate, the Tax Reduction Act of 1975 was enacted in part because in the area of the dependent care credit, "such expenses should be viewed as a cost of earning income for all taxpayers and that it was wrong to deny the benefits to those taking the standard deduction."

Under current law the credit is not considered a cost of earning income for all taxpayers. Clearly those families at the lowest income levels are penalized--not supported. Without a refundability clause the dependent care credit penalizes--or "blames the victims" of low income status.

Finally, Senate Bill 888 would make it easier for non-profit child care centers to qualify for tax exempt status. This provision is especially relevant for infant care and school-age child care programs. To maintain these programs, current restrictions which make it harder, rather than easier to attain tax exempt status, should be relaxed.

At the present time to obtain tax exempt status, infant and school-age child care programs must file as a school and submit written lesson plans and other detailed descriptions of the program's educational value. If, in good faith, a center files for tax exempt status but states that its primary purpose is to provide child care, even though it may be developmental, the center will most likely be denied exemption by the IRS. If a center should file as a charitable organization (under 501-C3), it must prove that its services are offered primarily to low income children, therefore, precluding the economic integration of programs in service to children. This arbitrary practice does not facilitate the national goal of maximizing existing resources at the local community level. The proposed legislation would eliminate these problems by amending the definition of "educational" to include dependent care programs.

Conclusion

Child care has been, and continues to be, a political and often controversial issue. Child care should not however, be viewed as a political issue, but as a response to needs that cut across all lines: political affiliation and ideologies, family compositions--both single parents and two-parent families at all income levels need child care--now!

For most parents, it is not just a question of finding quality child care arrangements, but the cost and despair of having to pay the inordinate price of care in order to be able to work. Parents expect to pay something for their child care expenses, but understandably, many families need some help. This issue affects the economic fabric of society since the nation depends on the ability of the family to meet its own needs through employment.

Certainly Senate Bill 888, Title II, Sections A, B, and C cannot address all of our concerns, and we must acknowledge this fact. It can not replace the child care previously provided under the Title XX Social Services Block Grant and through the Aid to Families with Dependent Children (AFDC) program. Many families with incomes below $12,000 will not have enough money to purchase child care at any price. Therefore, I urge your support for all of the Dependent Care Credit Amendments as an important contribution to the lives of the constituents you serve and to their children. Senate Bill 888, Title II, Sections A, B, and C, is a response--a stronger and more appropriate response to addressing the child care needs among the nation's families.

STATEMENT OF ANN MUSCARI, PRESIDENT, NATIONAL ASSOCIATION FOR CHILD CARE MANAGEMENT, WASHINGTON, D.C.

Ms. MUSCARI. Good afternoon, Senator. As you stated, I am president of the National Association for Child Care Management, and also the public relations director for Kinder-Care Learning Centers.

My testimony here today is on behalf of the National Association for Child Care Management. I really appreciate the opportunity to share with you our support for two provisions of the dependent care aspects of the Economic Equity Act, and our reservations regarding a third part of the spectrum and some other related comments.

NACCM, or the National Association for Child Care Management, is the organization of private, for-profit child care businesses in the United States. Our membership operates centers that offer care in 188,000 licensed positions for infants, preschool children, and school age children of American working families, and these are the families who really do benefit from the child care tax credit. NACCM is composed of sole proprietorships, mom-and-pop organizations, as well as multicenter groups of all sizes: National Child Care, Gerber Child Care, Children's World, and including my own company, Kinder-Care, that operates 775 centers in 38 States.

You have heard testimony today about the dramatic increase in numbers of working mothers and their children needing care. Private enterprise has made some real strides in meeting the needs of children, creating infant programs, innovative after-school programs to serve the latchkey child, and the more traditional preschool learning programs for children from 3 to 5. We know that by supporting the increased dependent care tax credit to 50 percent at the lower end of the economic scale and by making the credit refundable for those whose earned credit exceeds their income tax liability, we will be focused on the population most in need. We will offer more services for the dollars spent and really encourage a return to the work force from the welfare rolls. We will also see some increased employment in positions of care givers in centers.

The socio-economic composition of children in families in our member centers often does not differ appreciably from other centers. Recent marketing research done by a member company indicated that over 7 percent of the children in care came from families with incomes under $10,000. This percentage would be considerably higher if States were less biased about utilizing the private sector as a vendor. Our member centers are located in all varieties of neighborhoods, towns, and cities and serving all ethnic and cultural groups, both as customers and as employees. Central to our position is the importance of parental choice. We believe that parents want the best for their children and they will choose the best care within their means, often the underground or unlicensed facility is the only affordable or available option. Improved tax credits and refundability will create more options and parents will select quality licensed programs of their own choice. The need for government-provided services will diminish and the marketplace will benefit.

The provision of the bill opposed by NACCM is the easing of eligibility requirements for obtaining tax exempt status for certain child care programs. We oppose this. It encourages the proliferation of one type of child care over another and ignores the private sector potential to meet needs while paying taxes. Infant programs and school age programs are increasing right behind the needs in the private sector.

Why would Government want to subsidize new programs that duplicate existing ones and ignore the creative and innovative ability of the private sector to expand their services to infants and latchkey children.

Please don't spend Federal dollars or give up potential tax dollars to new tax-exempt programs.

I guess the real reason that I came today was to reassure you that we really are taking care of children, that we are taking care of working families, that we are taking care of single parents, and we are doing it in the free enterprise environment. Children are our first concern, but we have not lost sight of the importance of economics in this exciting growth-oriented industry of child care and we hope that you won't either.

Thank you.

[The prepared statement of Ms. Muscari follows:]

Testimony
Presented by
Ann Muscari, President
National Association for Child Care Management

Mr. Chairman, Members of the Committee, I am Ann Muscari, President of the National Association for Child Care Management and National Public Relations Director for Kinder-Care Learning Centers; I appear before you today in my capacity as President of the National Association for Child Care Management. I appreciate the opportunity to present to you today our support for two provisions of the Dependent Care aspects of the Economic Equity Act, S. 888, and our serious reservations regarding a third part of this section.

As background for you, the National Association for Child Care Management -- NACCM -- is the organization of private, proprietary child care businesses in the United States. Our 300 member companies own and operate over 2,000 licensed child care centers throughout the country. These child care centers serve approximately 188,000 children of America's young working families, the families who are the major beneficiaries of the dependent care tax credit initiatives. Our members range in size from my company, Kinder-Care Learning Centers, headquartered in Montgomery, Alabama, which operates 775 child care centers in 38 states, to single-center, sole proprietorships that serve individual, local communities.

Our industry is young, vibrant, and growing annually to meet the child care needs of young families. We are a service industry, characterized by small businesses that seek to provide quality, licensed child care at an affordable cost to those families. Further, our industry grew out of entrepreneurial efforts that recognized a fundamental change in the complexion of the U.S. workforce. You have the statistics before you that demonstrate the dramatic increases in female workers, in single-parent families, and in the percentage of working women with children under six years of age who, by choice or by necessity, remain in the workforce. Private, proprietary, center-based child care serves this new workforce.

Several of the provisions of S. 888 relate directly to the child care requirements of this workforce and impact on our ability to meet those requirements. NACCM offers to you today our full support of the provisions to increase the Dependent Care Tax Credit to 50% at the lower end of the economic scale and to make the credit refundable for those whose earned credit exceeds their income tax liability. However, NACCM must also inform you of our objections to a third provision of the legislation which would ease the requirements for obtaining tax-exempt status for certain child-care providing entities and organizations.

I will address each of the three provisions separately, but would like to preface that with NACCM's basic perspective. As an industry, we support the Administration's efforts to revitalize the American economy and to put America back to work through private sector initiatives. We wholeheartedly support measures that will provide incentives for businesses to create jobs and for people to seek jobs, and to work in those jobs at the peak of their productivity.

From this perspective, we offer our support for the improvements in the Dependent Care Tax Credit and our objection to the unhealthy stimulation of tax-exempt rather than tax-paying child care centers.

NACCM endorses the provision of the 1983 Economic Equity Act to increase the Dependent Care Tax Credit from the current 30% of work-related dependent care expenditures for taxpayers with incomes of $10,000 or less to the more realistic level of support of 50%. This improvement will focus the increased benefit on the population most in need, will strengthen economic efficiency in the marketplace by enhancing the work incentive, and will allow parents to better afford quality child care arrangements of their choice.

Statistics indicate that child care is the fourth largest household expenditure for young families. Many families who are dependent on government assistance today would have a better opportunity to attain self sufficiency if they could afford child care expenses.

Families working at minimum wage, or close to minimum wage jobs, earn too much income to qualify for welfare benefits, but do not earn enough income to pay for their child care and their living expenses. The 50% tax credit addresses needs of both of these groups.

For example, based on an average weekly fee of $40 for full-day child care in a center, a minimum wage earner with a weekly income of $146 would be paying a staggering 26% of income for child care. Yet, despite this huge expense, one of our member companies has documented that fully 7% of its families have incomes below $10,000. Clearly, these families place an extremely high priority on quality child care.

For others in this income range, the options are limited to remaining in the workforce with the least expensive arrangement available -- which probably equates to unlicensed care -- or to return to the welfare rolls. But, if those families could receive a credit of 50% of child care expenses, they would then be spending only 13% of income on child care. The improved financial outlook would enable more parents to purchase quality, licensed child care in order to seek employment. Furthermore, those families with low incomes, who are just barely making ends meet, will have additional resources that may enable them to obtain more desirable quality child care arrangements as they remain in the workforce.

In a decade when the tax burden and workforce productivity is so important, NACCM encourages you to consider the benefit of acknowledging that low and moderate income families should be able to receive proportionately greater relief than families with more resources. NACCM believes that over a period of time, the government would recover a significant portion of the cost of the increased credit through additional income and social security taxes which will result from the expanded work effort it should produce.

One additional attractive element of the increased Child Care Tax Credit is the extension of an important parental responsibility to more families -- that of parental choice of child care arrangements. By increasing the credit for families at the lowest end of the income scale, you increase their child care options. Rather than being forced into unlicensed or subsidized child care arrangements that they did not choose and may not want, families will receive direct financial relief, in the form of more spendable dollars, for use in purchase of child care of their choice.

For the reasons noted above the targeting of benefit to those most in need, the provision of a work incentive, the generation of additional taxable income, and the element of parental choice -- we can offer our support for a second provision of S. 888, that of refundability of the Child Care Tax Credit. Refundability is the logical extension of the inclusive nature of the credit. The most attractive aspect of the Dependent Care Credit is the intent that eligibility extends to all working parents.

However, the intent is not fully realized unless those families with no liability or very limited tax liability are able to utilize the full credit. By making the credit refundable, the Dependent Care benefit would be all-inclusive.

While some may view this refundability provision as direct subsidization of child care by the government, we would point out again that provision of spendable child care dollars directly to families is far more sensible than provision of government-funded and bureaucratically-administered child care services. Families can choose their child care in the marketplace, their child care dollars can fuel the market, and the private sector can expand to meet the increased need. The refundability of the credit essentially puts power in the consumer's pocket and takes the government another healthy step away from its inappropriate role as a child care provider.

From these comments on the increase in the sliding scale and the refundability of the Child Care Tax Credit, I trust the Committee will understand clearly why NACCM opposes easing the eligibility requirements for obtaining tax-exempt status for child care centers. This third provision does not offer economic incentives, it does not contribute to child care as a viable service industry, and, from our perspective, it does not make sense.

The intent of this provision, we are told, is to stimulate such "unique" and "non-standard" services as infant care and before-and-after school care. In fact, these services are neither unique nor non-standard. Both infant care and, to an even greater degree, before-and-after school programs, are currently available, and have a high potential for growth and expansion through the private sector. This potential is even more dramatic if the 50% Child Care Tax Credit and its refundable provision are supported by the Congress.

NACCM data indicates that member companies offer an array of services that include full and partial-day care, before-and-after school programs, summer activities, and day camps uniquely designed for infants, toddlers, pre-schoolers and/or school-aged children. Over 70% of NACCM member centers operate from 10 to 12 hours a day, offering flexibility to accommodate different schedules for parents and children. Additionally, a recent NACCM member survey indicates that approximately 34% of the total NACCM member centers' enrollment are school-aged children and children 3 years of age and younger.

Additionally, licensed child care spaces are available in today's marketplace, as evidenced by the average of 76% occupancy in NACCM member centers over the past 12 months. Therefore, it seems inappropriate in a free enterprise society to put private, proprietary child care centers at a competitive disadvantage. The for-profit, taxpaying child care providers invested millions of dollars during the 1970's to meet rising child care demands and will continue to meet that demand in the '80's, IF there is a fair opportunity to earn a profit.

Consequently, NACCM views support of an increase in the Child Care Tax Credit and refundability as incompatible with incentives that would favor one type of child care provider over another. If we agree that the two provisions will increase access, availability and affordability of quality child care, can we logically conclude that we also require an additional incentive to create tax-exempt, rather than tax-paying, child care centers? NACCM cannot draw that conclusion and, thus, cannot support an initiative that will impede our members' ability to grow by forcing them to compete with tax-subsidized alternatives. We respectfully request your careful consideration and ultimate opposition to this one proposal.

We all recognize the wisdom of our investments in today's children by providing them with the opportunity to develop skills and to grow in a healthy, safe environment with adequate supervision and stimulation. This investment will generate the productive, contributing adult citizens for tomorrow's society. Parents have proven they are wise consumers in the child care marketplace and consider many factors in their choice of a desirable and affordable child care arrangement. The proposed enhancement of the dependent care credit and its refundability encourage the important element of parental choice by providing the benefit directly to the taxpayer for purchase of the quality care that best suits the child's needs and the parents' expectations. These measures do not encourage government involvement in providing care nor do they influence one specific kind of child care choice over another.

In conclusion, NACCM welcomes your consideration of our comments and acknowledges the opportunity provided by the Committee for us to present the perspective of the private, proprietary child-care companies. We encourage your support for the 50% Child Care Tax Credit and its refundability.

Senator **Durenberger**. Thank you. Someone this morning said of being on a panel here with Packwood and Durenberger and so forth was like preaching to the choir, and to a degree that is and it has minimized the number of questions we need to ask. But I do just have to ask Ms. Muscari a question relative to the for-profit/not-for-profit situation because obviously we find this in a variety of other areas, in hospitals and in a lot of other institutional arrangements.

Is it my understanding of your testimony that the for-profit child care system out there would be adequate to handle the demand for child care if only that demand were supplemented by the greater financial access that would come from the tax credit and refundability proposals in the Economic Equity Act?

Ms. **Muscari**. Let's put it this way. I think that there are enough positions available within our existing centers to make a big dent in the need and the requirement, and if those centers became full then I would be much more in turn with looking toward creating some new programs. I'd like to see us fill up what we have. I'd like to see us utilize in a fair and equitable fashion the for-profit centers as equally as we do the not-for-profit.

Senator **Durenberger**. Am I missing anything in saying that the degree of subsidy that would exist for a nonprofit center would be no greater than the degree of Government subsidy to a nonprofit hospital or a nonprofit organization of any other kind. This legislation does not anticipate any greater subsidy than that which comes with the tax exemption for income generated by the facility; is that correct?

Ms. **Muscari**. You're correct.

Senator **Durenberger**. All right. I thank you all very much. I appreciate your being here, and if I haven't said it, all of your statements in full will be made part of the record. Thank you.

Our next panel includes Patricia Kelly, president and cofounder, accompanied by Patricia Turner, cofounder and vice president of Kinder, Flint, Mich.; Bettianne Welsh, president, accompanied by Gerald A. Cannizzaro, cofounder and vice president, For Our Childrens' Unpaid Support [FOCUS] of Vienna, Va.; Ruth E. Murphy, coordinator, accompanied by Sherri Doyle, Organization for Enforcement of Child Support, Washington, D.C.; and Ann Kolker, policy analyst for the National Women's Law Center, also in Washington, D.C. Having said that, are any of you here? Come on right up and grab a chair if we have enough of them.

Who came in a Winnebago? I am very confused. Would you all put up your hands? And you came from Flint, Mich., or all over? In a Pace Arrow. We don't want to give anybody undue credit. You came in a Pace Arrow. Is that like a Pearce Arrow?

Well, let me thank you all for being here. I think I know why you're here. I know that several of you made substantial sacrifices to be here and to speak relative to this legislation, and so we will start with Ms. Kelly. You all understand by these lights that we have time limitations, and somebody probably explained that to you ahead of time, so we can start with Pat Kelly first.

All right, so we're going to have Pat Turner go first. Thank you.

STATEMENT OF PATRICIA RUSSELL TURNER, COFOUNDER AND VICE PRESIDENT OF KINDER, FLINT, MICH.

Ms. Turner. Good afternoon. I am Patricia Turner and I am cofounder of KINDER—Kids in Need Deserve Equal Rights, and we are going to share our testimony time.

KINDER is the German word for children, and that's what our advocacy group is all about: the rights of children following a divorce. We are an advocacy group of parents and concerned citizens. Most of our members are custodial mothers who are not receiving their court-ordered child support. All of us have legally binding documents entitling us to collect child support. All of us have found out the hard way the system is too weak and inadequate for us to provide for our families. The great majority of us have spent time on welfare. We have decided to band together after years of frustration, of fighting the system as individuals.

There are a number of groups such as KINDER springing up across the country, and there is a great momentum building on this issue. In March of this year KINDER was featured on an ABC news program, 20/20, entitled "Daddy, Can You Spare a Dime?" It was the first prime time coverage that we are aware of of the child support issue. At the time the feature was shown, KINDER volunteers in Flint, Michigan, staffed an 800 toll-free number for 1 week's time. In 1 week we surveyed both custodial and noncustodial parents regarding the problem of collecting child support. We talked to over 2,000 custodial mothers and found that 94 percent of them were not collecting the court-ordered child support although they had legally binding documents entitling them to the support.

We heard from all 48 States and the survey pointed out severe problems in child support enforcement. We found out in the 1 week's time that almost 80,000 people from across the country had attempted to contact us on the 800 toll-free number. Clearly, it's an enormous problem, something that has not come to national attention before. It has generated a lot of excitement across the country and people now have contacted KINDER and other groups searching desperately for answers. These people cannot afford attorneys, they cannot afford the cost of battling an enormous and inadequate system. The child support system in this country is like a sleeping giant and parents now are banding together and hope to awaken the system, something that will serve our children's needs.

I brought with me today as part of our delegation Patty Kelly. Patty Kelly's story was profiled on the 20/20 piece and in other national publications. She will describe her experience of attempting to get her court-ordered child support, something that the hundreds and thousands of callers identified with the story and contacted KINDER for support.

[The prepared statement of Ms. Turner follows:]

STATEMENT OF PATRICIA RUSSELL TURNER, ON BEHALF OF KIDS IN NEED DESERVE EQUAL RIGHTS (KINDER)

Senators, I am Patricia Russell Turner, co-founder of KINDER - Kids In Need Deserve Equal Rights, an advocacy group of parents and concerned citizens united to improve the enforcement of court orders related to child support, visitation and custody. KINDER has members across the country, the majority of whom are custodial mothers who are not receiving their court-ordered child support payments.

In March of this year the ABC news program "20/20" featured a segment on child support problems entitled "Daddy, Can You Spare A Dime?". Following, the broadcast, viewers were invited to call an 800 toll-free number as KINDER volunteers conducted a nationwide call-in survey. Responses from nearly 3,000 custodial and non-custodial parents in 48 states pinpointed severe problem areas in child support enforcement. In one week's time an estimated 80,000 people from across the country attempted to contact us, as supported by information supplied by AT&T. Clearly, child support enforcement is an enormous problem and parents are searching desperately for answers.

These parents are trying to deal with an antiquated system which has been to this point a low priority in many jurisdictions. As more divorce and paternity cases flood already overcrowed courtrooms each day, the system becomes less capable of enforcing orders, leaving many parents powerless to collect child support payments. Arrearages continue to accumulate into thousands and thousands of dollars and nothing is done.

Fifty-one percent of survey respondents reported that they had been on AFDC at one time or another since their divorce. Of these, two-thirds had applied for welfare because of lack of child support. Eighteen percent of the respondents are currently AFDC recipients. Of these, 90 percent had applied because of non-payment of support. Two-thirds of the AFDC respondents stated that they were capable and willing to work, had a plan for child care and would be off the welfare rolls if their child support was received.

The majority of callers were non-ADC mothers. Non-payment of support leaves them in a precarious situation. Working custodial mothers can walk a tightrope between self-sufficiency and poverty. For many of them, child support payments are needed to pay for child care while the mother is working to support the family. If she does not receive the payments, child care and work expenses can place the family on the borderline of the poverty level. After many futile attempts to collect, many women cannot afford attorneys and give up, oftentimes reverting to AFDC dependence. To the working woman, the collection system can appear indifferent to her family's struggle to survive financially. In many locations selective enforcement is practiced with welfare dependence acting as a trigger mechanism for stepped-up enforcement, due to financial incentives to collect on these cases. Millions of American families are trapped in this "Catch-22" situation.

All these problems are compounded when they involve intercounty or interstate enforcement. There is a disturbing lack of uniformity in determining the amount of support, in considering continued medical coverage for the children, in prioritizing enforcement efforts and in methods used to collect, from county to county, from state to state. No county or state in the country collects even 50 percent of its court-ordered support.

A full 94 percent of survey participants reported that they did not receive child support on a regular basis. Hundreds of them have contacted KINDER since the "20/20" broadcast in hopes that something could be done for their children. It is on behalf of all these children that I urge your consideration today.

The child support system in this country is not working. Why? Because this problem has been swept under the rugh for far too long. Because the current weak and inadequate system fosters parental irresponsibility. Because selective enforcement of AFDC cases can backfire by indirectly discouraging working women who seek to remain in the workforce to support their families. Because the majority of court support orders in this country aren't enforced effectively, if at all.

Passage of Title V of S. 888 would establish the federal government, the largest employer in the world, as a model employer by providing for automatic wage assignments upon issuance of a court order for support. It would provide definitive guidelines for the Title IV-D program, which is currently mired in the ambiguity of protecting all children according to the law, and yet held accountable for performance by an AFDC scorecard. It would provide mandates for the states to follow, which would provide some measure of uniformity and begin to rectify the staggering problem of interstate enforcement.

I see Title V of S. 888 as a very positive and long-overdue measure for millions of American families, for the American taxpayers, who have spent billions of dollars on welfare programs when able-bodied parents refuse to support their children, and for the future welfare of America.

STATEMENT OF PATRICIA KELLY, PRESIDENT AND COFOUNDER, KINDER, FLINT, MICH.

Ms. Kelly. It's almost like bleeding for everyone, but before I was divorced 3½ years ago, my children who are now 8, 9, and 11, and my husband and I lived in the suburbs south of Flint, Mich. It was upper middle income. My husband was a General Motors employee earning close to $50,000 a year. Within 2 weeks after filing for divorce, I was faced with eviction, I had no money for food. So my children and I were moved by my sister. She paid for the moving van. We are now living in a innercity housing project which is right outside a war zone. I had a security guard shot in my front yard less than 3 months ago. I had to apply for welfare.

The problem is that I chose to stay home and be a mother for 8 years, and I found myself with no job skills. When I would go and apply for a job, the first thing an employer would ask me is who is going to take care of your children, what if they get sick.

I went to The Friend of the Court, an enforcement agency, and I told them if you don't collect the child support from my husband who is making $50,000 a year and lives less than 3 miles from me, my children and I are not going to have any food to eat next week and we are going to be starving. And he said, "I don't know what to tell you. Go on welfare." That's always the answer. And so I was one of those, I'm now working part time as a disc jockey at a radio station. I'm trying to learn a new career. It's a long road back. I couldn't lose my medicaid or my food stamps. That's the reason that I'm still on welfare, because if I was lucky enough just to collect the highest average in the country right now which is $600 per year per child, which is in the county I come from. They have one of the best collection rates in the entire country. I would have to earn four times as much just to reach the poverty level. We desperately need help.

[The prepared statement of Ms. Kelly follows:]

STATEMENT OF PATRICIA KELLY, ON BEHALF OF KIDS IN NEED DESERVE EQUAL RIGHTS (KINDER)

Gentlemen, my name is Patricia Kelly. I am Co-founder and President of KINDER, (Kids In Need Deserve Equal Rights), a national organization based in Michigan comprised of parents and citizens united to seek improvements in the family law system as it pertains to children. I am also a welfare mother, a fact of which I am not proud, but I'm sure you'll agree by appearance I'm not what most people envision a typical welfare mother to look like, I am though sadly enough all too typical.

Before I was divorced 3½ years ago, my husband, our three young children and I lived a typically middle class existence in the suburbs. My husband's income was nearly $50,000 per year. I did not work outside the home during the seven years of our marriage, but rather choose to devote myself to raising our children. Within weeks of filing for divorce it became necessary for the children and I to move to an inner-city housing project and apply for AFDC. My husband refused to pay child support even though he was a working General Motors employee.

The road to recovery for women like myself and their children is long and in many cases endless. Today my ex-husband owes nearly $12,000 in back child support, has quit his job, is successfully evading his financial responsibility to our children, and expects the government to support them. Even though I have a part-time job in broadcasting, my income potential is limited and I will most likely require some sort of government aid for the next ten years until my youngest son graduates from high school.

For millions of women like myself child support is the lifeline enabling us to be self-supporting and productive. The extremely high costs of housing, food, clothing, utilities and child care along with the fact that many women have few job skills and choose the traditional role of mother and housewife first, results in female heads of households and their children becoming poverty stricken after divorce.

Although America claims to be a child-oriented society the statistics tend to prove otherwise. Currently one out of five American children is being supported through social programs. One-quarter to one-third of the absent fathers never pay a dime in child support, and some government officials estimate that only one out of ten absent fathers pays on time in full. The county in Michigan where I live, Genesee, has been lauded as one of the best in the area of child support collection nationwide. Michigan comprises 4 percent of the american population and collects at least 13 percent of all child support dollars collected nationally. Although rated among the best, the county in which I live only collects on the average $600 per year per child which breaks down to a scant $11 per week and only $1.65 per day. Obviously, if a custodial mother of three is lucky enough to collect the average $600 per child annually she will have to be generating more than four times as much through employment to reach the poverty level.

My personal experience with the child support enforcement system and my additional knowledge through dealing with KINDER members nationally is that the current child support enforcement system encourages welfare dependence. Working mothers not on AFDC find very little help in collecting child support while women on welfare see stepped up enforcement. The federal government offers many financial incentives to each state to encourage offsetting welfare costs but offers few to encourage non-AFDC collections. This policy literally forces millions of women and children onto welfare and "Uncle Sam" becomes the child supporter unnecessarily. In many cases if child support payments were received regularly the family would not even qualify for government aid. The discrimination in collections is further proven by the tax intercept program. Last year millions of dollars were successfully collected through the attachment of tax refund checks, but again only to offset welfare costs, not for the non-AFDC families. The first step toward improving the child support collection system is to insure equal enforcement of all court support orders. It is strictly a matter of dollars and "sense"-the costs of mandatory wage assignments, tax-intercepts, and administrative overhead will be much less taxing than supporting the family through AFDC, food stamps and Medicaid.

I strongly encourage the passage of Title V of S 888. If America's children are to be its future we have to provide a stable environment for every child. Title V of S 888 will begin to rectify the frightening trend where the federal government is the child supporter and re-direct the financial responsibility of child rearing where it has always belonged, with the natural parents.

SUMMARY

for

SENATE COMMITTEE ON FINANCE

BY

PATRICIA KELLY

Presently millions of American children are living far below the poverty level due to lack of child support. Unfortunately at this time the trigger mechanism for collection of child support is welfare dependence. The child support system as we know it offers little or no help to children and families not receiving government assistance. More often than not custodial mothers end up on welfare if not receiving child support regularly. The system encourages welfare dependence as proven by the incentives offered by the federal government to each state to offset welfare costs and the lack of incentives offered to collect on non-AFDC cases.

Title V of S 888 will begin to rectify the discrimination in child support collection and in the long run will prove to be extremely cost effective. Social programs are a tremendous drain on the federal budget. I encourage passage of any legislation especially Title V of S 888 that shifts the responsibility of supporting America's children from the government to the natural parents.

Single-parent female headed households are the largest and fastest growing poverty group in America. By the year 2000 it is projected that all of those below the poverty level will be women. Title V of S 888 will slow this frightening trend by offering assistance to those women and children not collecting government aid, and will enable many to be self-supporting because they are receiving regular child support payments.

Senator **Durenberger**. Do you have a quick summary, Pat?

Ms. **Turner**. Yes, Senator Durenberger.

It's critical that the issue of the nonADC custodian be addressed in any legislation. This is something that has been overlooked in the financial incentive given to child support programs. In my written testimony I equate the problems of the working woman in America between self-sufficiency and poverty. A strong child support enforcement system would give us the safety net we need to remain self-sufficient and to provide for our families.

Thank you.

Senator **Durenberger**. Thank you very, very much for your testimony.

Our next pair of witnesses, again Bettianne Welsh and Gerald Cannizzaro, who are the President and Vice President of FOCUS, which you can tell from their buttons, which is For Our Children's Unpaid Support.

STATEMENT OF BETTIANNE WELSH, PRESIDENT, FOR OUR CHILDRENS' UNPAID SUPPORT (FOCUS), VIENNA, VA.

Ms. **Welsh**. Thank you, sir.

Gentlemen, I am Bettianne Welsh, president and cofounder of FOCUS, For Our Childrens Unpaid Support, and with me is Gerald Cannizzaro, vice president and cofounder.

We're a citizen advocacy group that was founded in July 1981 in Virginia. I'm currently also an advisory member of the interstate child support enforcement study being conducted by the center for human studies under a grant from the Social Security Administration. FOCUS appreciates this opportunity to appear today in regard to the Child Support Improvements Act of 1983.

FOCUS is founded on the premise that all children are entitled to financial support necessary to meet their basic needs. This support is the moral and legal responsibility of both parents. As you are aware, an alarming number of parents choose not to honor this responsibility. Instead of two parents providing support, the custodial parent is carrying the entire burden. Most often the custodial parent is making the lesser salary and the burden becomes unmanageable. At this point, outside assistance must be sought in the form of food stamps, subsidized housing, aid to dependent children, and student aid for education. The taxpayer, in fact, picks up the burden for the parent who is delinquent in the support of its child.

We endorse any measures that will establish an improved national system of monitoring and collecting child support. We in FOCUS are very personally aware of the weaknesses in the present system of enforcement and collection. The statistics that are being presented to your committee overwhelmingly illustrate that unpaid child support is a problem of a national magnitude.

Statistics often do not show us where the problems lie, only that they exist. Our personal experiences with child support collection may be helpful to you. For illustration I will present in a very brief form three real cases first.

One. A custodial parent has experimented the phenomenon known to those of us in the trenches so to speak as "State hopping." She has attempted collection of child support in five States in 6 years, with very little success. The procedure for obtaining a judgment in each new State is so lengthy that relocation occurs before collection. The new State will, of course, need to establish its own order for collection and often waives prior arrearages. This has proven to be an effective method for the delinquent parent to avoid paying support.

Two. In another case familiar to our group, the custodial parent has attempted collection from a self-employed former spouse. Wages cannot be attached and true income cannot be proven. She has withdrawn from the child support system because it does not adequately address these problems. She is now grateful for the small amounts of support which are sporadically, and very sporadically, sent directly to her. She, as most custodial parents, makes no attempt to budget in her child support payments. She receives each payment as a "bonus." We're all in that position. We get a payment and it's whoopee. You can pay your back bills.

Three. Since 1979, the custodial parent of three children has been actively pursuing her case within the URESA system. She has received three payments to date. She holds five support orders, has had thousands of dollars in arrearages "held in abeyance," and has had the original support order reduced from $650 per month for three chldren to $400 per month for three children to $300 per month for three children. To date she has employed the intervention of two Members of Congress and the gratis intervention of two private attorneys. As stated, her three children have received three payments in 4 years.

These cases illustrate the inability of the current system to deal effectively with specific problems: the self-employed noncustodial parent, the actual collection of support orders, and the State hopping delinquent parent. Most custodial parents cannot afford private attorneys. They must depend on the child support system to obtain their payments. Pursuit of their cases within the system becomes frustrating and time consuming. With support officers handling at the very least 600 to 800 cases each, and with the overcrowded court dockets, it is no wonder that these cases become a lengthy and an often fruitless pursuit. It's also no wonder that many parents are forced to drop out of the system in despair. These families are no longer even a part of the national statistics on delinquent child support. There are large "cracks" in the present system, Senators, and unfortunately children are the ones falling down the cracks.

At this point Gerald Cannizzaro will present for your attention what we in FOCUS believe would be helpful in strengthening the collection of child support payments. Thank you.

Senator DURENBERGER. Thank you, Mr. Cannizzaro.

STATEMENT OF GERALD A. CANNIZZARO, COFOUNDER AND VICE PRESIDENT, FOR OUR CHILDRENS' UNPAID SUPPORT (FOCUS), VIENNA, VA.

Mr. CANNIZZARO. Good afternoon, Mr. Chairman. I am cofounder of FOCUS and a financial analyst and advisor by profession. As Ms. Welsh has previously stated, we believe the Child Support Enforcement Act is a very positive step in strengthening the effectiveness of our national child support collection efforts. However, the experience of our members has shown us that many State jurisdictions do not always cooperate among themselves in collecting or enforcing child support awards. We have found that a lack of uniformity in State laws and courts lends itself to various interpretations of a child's basic rights and needs. Therefore, in many instances it is most difficult, if not impossible, for a spouse to collect child support payments when the nonpaying spouse moves from State to State. The act, as now written, will be most beneficial to those child support collection efforts based within an individual State. However, it will not solve the collection problems of thousands of spouses whose partners willingly move from State to State avoiding their child support obligations. In addition, if spouses who are collecting child support with the assistance of a State agency move to another State, they create a nightmare of problems. Their new State of residency may delay or reduce their child support payment due to different child support laws or in their collection agency's effectiveness and procedures.

FOCUS believes that the only way to resolve the frustrating problems caused by interstate noncollection and noncooperation and legal differences is to make it a Federal offense to willingly not pay or avoid basic child support payments. Making child support a Federal offense would greatly help to eliminate the millions of dollars of lost support payments and subsequent Federal assistance money that now escapes interstate collection loopholes.

Therefore, we urge the following recommendations be adopted as part of the Child Support Enforcement Act you are considering here today.

One. Establish a minimum child subsistence payment level which must be paid to every custodial spouse for each dependent child regardless of parental, welfare, or residency status. This payment should be an amount adequate to supply the dependent child with his basic needs, that is, adequate food, clothing, education, and medical aid. The creation of such a payment level would act as a floor for the State courts to award and defend minimum child support payments. We further recommend that this child subsistence payment should be indexed on an annual basis according to the changes in the National Consumer Price Index. We believe the Federal Government now has the adequate statistical resources and personnel to establish this minimum subsistence payment.

Two. As previously stated, we believe that the Federal Government should make it a national offense to deliberately avoid paying child support. This offense should be punishable by a substantial fine, levied, and enforced by the Federal courts and revenue collection agencies. It is FOCUS' belief that the creation of a Federal fine will be greatly instrumental in motivating those chronic nonpayers to recognize their parental responsibility.

Three. We believe the Federal Government should offer its assistance and resources in helping State jurisdictions to attach both wages and property by honoring their valid support orders. This Federal assistance would greatly help the State agencies in collecting child support payments from nonpaying spouses who hop from State to State to avoid their parental obligations. In addition, the use of Federal resources coupled with a Federal fine would make it more difficult for those nonpaying self-employed spouses to avoid their support responsibilities.

We understand that there will be expenses incurred by the Federal Government in providing our recommended assistance. However, they would be more than offset by reductions in the amount of Federal assistance payments now made to nonsupport receiving spouses. If the Federal Government does seek direct reimbursement for its services we urge that the nonpaying spouse be charged and not the child supporting one. The burdens and frustrations, responsible spouses now endure in trying to raise their children with their own resources is ample reimbursement for any Federal assistance.

In conclusion, we ask the Federal Government to enforce the payment of child support awards as aggressively as private industry pursues delinquent financial obligations for automobiles, homes, and credit cards. The child support collection industry cannot remain a vehicle for employing people who only comfort those in misery. It must be an industry which becomes effective in entering and ending the poverty and uncertainty now facing responsible spouses and their dependent children. In behalf of the millions of children who are not receiving support payments, we ask you adopt the recommendations we have made here today. Thank you.

Senator DURENBERGER. And we thank you for your testimony. Our next witness is Ruth Murphy, who is accompanied by Sherri Doyle and testifying on behalf of the Organization for Enforcement of Child Support.

Ms. Murphy.

[The prepared statement of Ms. Welsh and Mr. Cannizzaro follows:]

STATEMENT OF BETTIANNE WELCH AND GERALD CANNIZZARO ON BEHALF OF FOR OUR CHILDRENS UNPAID SUPPORT (FOCUS)

Senator Dole, members of the Finance Committee, I am Bettianne Welch, President and Co-Founder of F.O.C.U.S., For Our Children's Unpaid Support. My colleague is Gerald Cannizzaro, Vice President and Co-Founder. We are a citizen advocacy group, founded in July 1981, in Virginia. I am currently an Advisory Member of the Interstate Child Support Enforcement Study, being conducted by the Center for Human Studies, under a grant from the Social Security Administration. FOCUS appreciates this opportunity to appear today in regard to the Child Support Improvement Act of 1983.

F.O.C.U.S. is founded on the premise that all children are entitled to the financial support necessary to meet their basic needs. This support is the moral and legal responsibility of both parents.

As you are aware, an alarming number of parents choose not to honor this responsibility. Instead of two parents providing suuport, the custodial parent is carrying the entire burden. Most often, the custodial parent is making the lesser salary, and the burden becomes unmanageable. At this point outside assistance must be sought, in the form of food stamps, subsidized housing, aid to dependent children and student aid for education. The taxpayer, in fact, picks up the burden of the parent who is delinquent in the support of its child.

We endorse any measures that will establish an improved national system of monitoring and collecting child support.

We in F.O.C.U.S. are personally aware of the weaknesses in the present system of enforcement and collection of child support. The statistics that are being presented to your Committee overwhelmingly illustrate that unpaid child support is a problem of a national magnitude. Statistics often do not show us where the problems lie; only that they exist. Our personal experiences with child support collection may be helpful to you. For illustration, I will present, in brief sketches, three real cases.

(1) A custodial parent has experienced the phenomenon known to those of us "in the trenches" as "state-hopping." She has attempted collection of child support in five states in six years, with very little success. The procedure for obtaining a judgement in each new state is so lengthy that relocation occurs before collection. The new state will, of course, need to establish its own order for collection, and often waives prior arrearages. This has proven to be an effective method for the delinquent parent to avoid paying support.

(2) In another case familiar to our group, the custodial parent has attempted collection from a self-employed former spouse. Wages cannot be attached and true income cannot be proven. She has withdrawn from the child support system because it does not adequately address these problems. She is now grateful for the small amounts of support which are sporadically sent directly to her. She, as most custodial

parents, makes no attempt to "budget in" her child support payments as a regular source of income. She receives each payment as a "bonus."

(3) Since 1979, the custodial parent of three children has been actively pursuing her case within the URESA system. She has received three payments to date. She holds five support orders, has had thousands of dollars in arrearages "held in abeyance," and has had the original support award reduced from $650 per month for three children to $400 per month to $300 per month. To date she has employed the intervention of two members of Congress, and the gratis intervention of two private attorneys. As stated, here three children have received three payments in four years.

These cases illustrates the inability of the current system to deal effectively with specific problems: self-employed non-custodial parents; the actual collection of Support Orders; and the "state-hopping" delinquent parent. Most custodial parents cannot afford private attorneys; they must depend on the Child Support System to obtain their payments. The pursuit of their cases within the system becomes frustrating and time consuming. With support officers handling 600-800 cases, and with the overcrowded court dockets, it is no wonder that these cases become a lengthy and often fruitless pursuit. It is also no wonder that many parents are forced to drop out of the system in despair. These families are no longer even a part of the national statistics on delinquent child-support. These are large "cracks" in the present system. Unfortunately, children are the ones falling down the "cracks."

At this point, Gerald Cannizzaro will present, for your attention, what F.O.C.U.S. believes would be helpful in strengthening the collection of child-support payments.

Good afternoon, Senator Dole and members of the Finance Committee. My name, is Gerald Cannizzaro. I am co-founder of F.O.C.U.S. and a financial analyst and advisor by profession. As Ms. Welch has previously stated we believe the Child Support Enforcement Act (Act) is a very positive step in strengthening the effectiveness of our national child support collection efforts. However, the experience of our members has shown us that many state jurisdictions do not always cooperate among themselves in collecting or enforcing child support awards. We have found that a lack of uniformity in state laws and courts lends itself to various interpretations of a child's basic rights and needs. Therefore, in many instances it is most difficult, if not impossible, for a spouse to collect child support payments when the non-paying spouse moves from state to state. The Act, as now written, will be most beneficial to those child support collections effort based within an individual state. However, it will not solve the collection problems of thousands of spouses whose partners willingly move from state to state avoiding their child support obligations. In addition, if spouses who are collecting child support with the assistance of a state agency move to another state they create a nightmare of problems. Their new state of residency may delay or reduce their child support payments due to differences in its child support laws or in their collection agency's effectiveness and procedures.

F.O.C.U.S. believes that the only way to resolve the frustrating problems caused by interstate non-cooperation and legal differences is to make it a _federal offense_ to willingly not pay or avoid basic child support payments. Making child support a federal offense would greatly help to eliminate the millions of dollars of lost support payments and, subsequent federal assistance money, that now escapes interstate collection loopholes.

Therefore, we urge the following recommendations be adopted as part of the Child Support Enforcement Act you are considering here today:

1. Establish a minimum _Child Subsistence Payment_ level which must be paid to every custodial spouse for each dependent child regardless of parental, welfare or residency status. This payment should be an amount adequate to supply the dependent child with its basic needs (i.e., adequate food, clothing, education and medical aid, etc.) The creation of

such a payment level would act as a floor for state courts to award and defend minimum child support payments. We further recommend that this Child Subsistence Payment should be indexed on an annual basis according to the changes in the National Consumer Price Index. We believe the federal government now has the adequate statistical resources and personnel to establish this minimum subsistance payment.

2. As previously stated, we believe that the federal government should make it an national offense to deliberately avoid paying child support. This offense should be punishable by a substantial fine, levied and enforced by the federal courts and revenue collection agencies. It is F.O.C.U.S.' belief that the creation of a federal fine will be greatly instrumental in motivating those cronic non-payers to recognize their parental responsibility.

3. We believe the federal government should offer its assistance and resources in helping state jurisdictions to attach both wages and property by honoring their valid support orders. This federal assistance would greatly help the state agencies in collecting child support payments due from non-paying spouses who hop from state to state to avoid their parental obligations. In addition, the use of federal resources coupled with a federal fine would make it more difficult for those non-paying "self-employed" spouses to avoid their support responsibilities.

We understand that there will be expenses incurred by the federal government in providing our recommended assistance. However, they would be more than offset by reductions in the amount of federal assistance payments now being paid to non-support receiving spouses. If the federal government does seek direct reimbursement for its services we urge that the non-paying spouse be charged and not the child supporting one. The burdens and frustration, responsible spouses now endure in trying to raise their children with their own resources is ample reimbursement for any federal assistance.

In conclusion, we ask the federal government to enforce the payment of child support awards as aggressively as private industry pursues delinquent financial obligations for automobiles, homes and credit cards. The child support collection industry cannot remain a vehicle for employing people who only confort those in misery. It must be an industry which becomes effective in ending the poverty and uncertainty now facing responsible spouses and their dependent children. In behalf of the millions of children who are not receiving support payments, we ask you adopt the recommendations we have made today.

STATEMENT OF RUTH E. MURPHY, COORDINATOR, ORGANIZATION FOR ENFORCEMENT OF CHILD SUPPORT, WASHINGTON, D.C.

Ms. MURPHY. Good afternoon. I'm here with my oldest daughter, Sherri, on behalf of the Organization for the Enforcement of Child Support. I have been asked to present my own personal case history which exemplifies some of the inequities of our present child support enforcement system. I am the mother of three children ages 9, 14, and 17, who do not receive child support. Their father refuses to pay. He has made only one voluntary payment in the past 2 years, and his total monthly obligation for three children is $300.

In 1979 the arrearages amounted to $1,800. I retained an attorney and his fee was paid out of the support that we collected. In 1980, I remarried. Contrary to public belief, a change in marital status does not affect child support obligations of either parent. My ex-husband who was an employee of the U.S. Army Corps of Engineers transferred to Saudi Arabia in 1980. He had a considerable increase in his salary. For the first time since 1977, I received full child support payments for 6 months. He returned to the United States in 1981 and he stopped his voluntary child support allotment. Because we were living in separate States, I was advised by the court to file a URISA petition. After 5 months of letters and phone calls to the court in charge and also the Governor, my case was finally docketed. The cause of the long delay, my husband had been able to move across the county line into another jurisdiction and the case was dismissed. I was told to start all over again.

I tried all the traditional resources, but no one could assure me of receiving any child support. I could not afford to retain an attorney, so I decided to pursue my case without legal representation. But first I had to locate him. The Corps of Engineers advised me they did not have a home address in their personnel file. The State Parent Locator Service was able to obtain the information in 3 days. Like so many child support evaders, he had money to retain an attorney but no money to pay his child support.

A judgment was granted for $3,700 and was collected through garnishment of his wages. In September 1982, my ex-husband petitioned to have child support reduced from $300 to $100 a month for three children. This equates to $1.15 a day per child. The judge reduced it to $250 and gave him 22 months to pay arrearages amounting to $1,100. My ex-husband disagreed with this and appealed it to a higher court. The appealed court judge upheld the original amount of $300. Additional judgments and garnishments resulted in only partial success. Our success is limited from check to check. To further strengthen his refusal to pay child support, he quit his Federal job of 16 years and moved to another State. Garnishment had been filed against his Federal retirement. History is now repeating itself. No child support for almost a year, arrearages of over $3,000, escape to still another State, no current address or employment information. And on March 24 of this year the court received threats to my life from my ex-husband trying to get me to drop my child support case.

There are many issues proposed in the Economic Equity Act that may have prevented my case from continuing in this direction. A child support clearinghouse could provide locating information through utilization of a credit bureau databank and provide a self-starting collection mechanism. Liens against property and estates could be utilized in collection. Standard guidelines for determination of fair child support amounts in accordance with the parent's earning capability. Tax refund offsets are another valuable mechanism. Requirements for security or recognizance bond would provide a dependable resource to compensate for nonpayment. The most important issue that would have prevented this problem is a Federal mandatory wage assignment.

Important areas that have not been addressed are stricter enforcement and more uniformity of the existing laws, and improved reciprocity in interstate cases. Grass roots organizations such as KINDER, FOCUS, and OECS were formed by parents who realize the immediate need for better legislation to end this problem that has reached epidemic proportions.

Present legislation is about 20 years behind time. OECS is a peer support group that focuses on improved legislation, increased public awareness and self-education. An indepth study prepared by OECS along with supporting case histories will be submitted at a later date for your review and consideration. Although a child support order is a legally binding contract, it does not receive the same degree of enforcement afforded to a common traffic ticket.

As Regional Coordinator of the Organization for the Enforcement of Child Support, I encourage the passage of this Economic Equity Act. Let us put an end to this national disgrace. Thank you.

[The prepared statement of Ms. Murphy follows:]

TESTIMONY OF

RUTH E. MURPHY

REGIONAL COORDINATOR,
ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT

I wish to thank the Committee for allowing me to present testimony regarding Child Support Enforcement. Speaking from a personal viewpoint, I have experienced many of the inequities that exist. Because of the complexities it is difficult to adequately address every problem, but I will attempt to give you an idea of what one can realistically expect when trying to have a child support order enforced.

After several years of counseling, my first marriage ended in divorce in 1977. My former husband could not cope with the divorce and separation from family life. He, therefore, resorted to withholding child support in an attempt to force me into remarriage with him. When this failed he began other forms of harrassment, first directly to me, and then through my three children. Withholding of child support payments continued to be a major weapon.

Many times my financial situation worsened to the point where I had to depend on assistance from my family and friends. My salary of $10,500.00 excluded me from any help through Legal Aid or Welfare, and I was advised to retain an attorney. Since I had very little savings, the only other anticipated money would be their child support, if collected. I experienced guilt feelings about the use of my children's money to prod the Court into enforcing a child support order. At that time I believed that I had no other choice and retained an attorney, whose fee amounted to 1/3 of the child support collected. This was the beginning of many child support actions. It dawned on me that a pattern had begun that would continue for the next twelve years - until the youngest child came of age.

During the next two years, along with sporadic partial payments, there were many lean months where nothing was received. I felt hopeless dealing with an inept system such as we have. I was determined that I would not be driven to the Welfare roles, even if I had to work at two jobs. During this time my former husband persisted to harrass the family in many ways. As frustrated as I was, I continued to encourage him to visit his children. He preferred not to exercise his visitation rights on a regular basis, and therefore only widened the gap between him and his children.

In 1980 I entered into marriage with a man who has three children. We faced an extremely difficult financial situation with the responsibility of supporting my three children, his three children, ourselves, and an ex-wife, but we were determined that we could do it. There was always the possibility that some day the child support would be forthcoming. The failure of second marriages is often attributed to this type of financial stress. It was quite evident that with our financial outlay of totally supporting nine individuals, I could no longer allow the system to continue in the negligent way as it had for the past four years. There had to be a way to make the system work for my children.

There were many obstacles to overcome. I first wasted five months attempting an interstate action through URESA. During this time I was told by the State of Georgia that because my case was not a "new" case it did not deserve immediate docketing and, as a result of the delay, my former husband was able to move across county lines. This caused him to be removed from that jurisdiction and the case was dismissed. I was then advised to begin all over again. At this time arrearages had mounted to $3,700.00. He had made no attempt to pay child support for a year.

I was further discouraged by court personnel in attempts to deviate from the established URESA process. One visit to an attorney only reinforced my decision to proceed on my own. Because of my complex situation, I was told I could not expect the first hearing in less than six months. I first had to obtain my ex-husband's home address to begin any legal process. The personnel office of the U. S. Army Corps of Engineers, Savannah District advised they did not have a home address on file. I was forced by this negative response from a Federal Agency to file for parent locator services through the State. If I had not had an established case, a fee of $43.50 would have been charged for this service provided to Non-AFDC cases under the IV-D program. After locating my former husband, the first hearing was scheduled only two months after an attorney had advised that it would take at least six months.

With moral support from my children and my husband, I began to pursue the available avenues for self-education. Many hours were spent researching law books, writing and contacting agencies and organizations involved in child support enforcement.

With the permission of the Court, I proceeded to represent myself successfully at seven hearings in as many months. My former husband, on the other hand, could avail himself of the luxury of professional legal counsel.

During the following months a petition was filed by my former husband to reduce child support payments from $300.00 to $100.00 per month for three children. The Court, in its infinite wisdom, reduced the child support to $250.00 per month and gave him twenty-two months to pay arrearages totalling $1,100.00. This decision was not acceptable to him, and he appealed to a higher court. At the appeal hearing it was disclosed that my former husband had incurred legal fees of over $4,000.00 fighting an annual child support obligation of $3,600.00. It was clear that his reasons for not paying child support were not solely financial, but for other reasons as well.

My success was limited in collecting only a portion of the past-due arrears through a garnishment process. To avoid meeting his child support obligations which now include over $3,000.00 in arrears, my former husband quit his federal job of sixteen years and moved to another state. Now I am faced with a new challenge - a challenge that would not exist if it were not for the lack of importance placed on child support enforcement.

Although child support orders are legally binding contracts, they all too often receive less judicial enforcement than that afforded other civil debts, or for that matter, minor traffic violations. This lack of enforcement of child support orders, as exemplified by my own personal case, should not be allowed to continue. You now have the opportunity to help end this national disgrace by the enactment of the Economic Equity Act. I strongly urge you to vote for its passage.

Senator PACKWOOD. Thank you very much. I might say to the next panel, after we finish with Ann Kolker, we can let Senator Domenici testify. He was due here this morning, but he was trying to work out the final provisions of the House-Senate Conference on the Budget, so I will slip him in after we are done with this panel.

Ms. Kolker.

STATEMENT OF ANN KOLKER, POLICY ANALYST, NATIONAL WOMEN'S LAW CENTER, WASHINGTON, D.C.

Ms. KOLKER. Thank you very much. I am pleased to be here today to offer our support for the Economic Equity Act and to discuss child support enforcement.

As members of the Committee well know, a Child Support Enforcement Program has been in effect since 1975. You've heard about the programs that exist in each State. The National Office of Child Support Enforcement points to the growing total of collections, nearly $1.8 billion in 1982, as evidence of the success of the program. There are others, including our organization, who believe that there is great room for improvement, and are pleased to see that many of the deficiencies of the current program have been addressed by title V of the EEA.

It's altogether fitting that the provisions to improve child support enforcement are part of the EEA. When one compares the statistics on the economic burdens experienced by single female headed households with statistics on collections of child support payments, it's clear that the inadequacy of child support payments contributes to the low-income levels of so many female headed households.

A couple of facts just to give the problem a framework:

More than one-third of the households maintained by women live in poverty and over one-half of all children in poverty live in female headed households.

Divorce has contributed to the rise in single parent families, and the Census Bureau predicts that only one-half of all children born this year will spend their entire childhood living with both natural parents. Divorce can alter a woman's economic status overnight. One recent study found that a year after divorce, the wife's income dropped by 73 percent while the husband's rose by 42 percent. Consider these unsettling facts about child support collections:

According to the Census Bureau only 35 percent of the 7.1 million women bringing up children from an absent father received any child support payment in 1978, and only 24 percent received full payment. Stated another way, 65 percent, that's nearly two-thirds of the women with children from an absent father were raising their children without any financial assistance from the absent parent. The figures speak for themselves and make a compelling case for the need to strengthen child support enforcement laws.

The scope of the child support enforcement problem makes it important that State child support enforcement offices handle cases of all families, not just those whose children are receiving public assistance. Therefore we are pleased to see that the new bill continues the current requirement that States serve all families seeking assistance.

Title V of the EEA, by requiring improvements in state collections that will benefit nonAFDC as well as AFDC families is a significant step forward for all families in need of prompt, regular and adequate child support from absent parents.

We support the provisions of the legislation expanding the income tax refund intercept. We are concerned, however, about the bill's provision permitting the IRS to charge a fee for the costs involved, particularly because the act already authorizes States to assess fees for serving nonAFDC families. This is a heavy dose of fees and could substantially cut into payments that women expect to receive.

The heart of title V is the requirement that States establish a clearinghouse to collect and disburse support payments, monitor the timeliness of payments, and trigger enforcement mechanisms if arrearages develop. We are pleased that all States will be required to establish a kind of enforcement program whose effectiveness has already been proven in several States.

The important aspect of the clearinghouse approach is that it permits separating and divorcing parents to remove the issue of child support payments from any emotional tumult between the parents. The absent parent makes his or her payment directly into the clearinghouse and more importantly, if the payment is not forthcoming, the clearinghouse notes the deficiency and initiates action, relieving the parent to whom the obligation is owed of hiring a lawyer to enforce the order.

Another important feature of the clearinghouse is that it will help to ameliorate the problem of arrearages which often build up to the point where even the most vigorous efforts cannot recover the full amount of support owed.

On the critical issue of enforcement, we think there is a need to clarify that arrearages confirmed by the clearinghouse should result in timely enforcement actions. We strongly support the requirement that automatic enforcement mechanisms be triggered when arrearages are noted, and recommend that the legislative history should be written to reflect prompt enforcement action such as mandatory wage assignment, will occur automatically.

We support the sections of the bill which require States to strengthen their own laws; that is, implementing mandatory wage withholding laws when arrearages occur, providing procedures for the imposition of liens against property for past due support, and for States with an income tax to offer an income tax refund intercept.

I'd like to just conclude by drawing your attention to two matters. We do have some problems with the issue of administrative and quasi-judicial agencies establishing support. We believe that is a matter that should more properly be handled by the courts. We also recommend that there be a provision in the bill on the issue of paternity which would make the right to sue and establish paternity the same for illegitimate as well as legitimate children.

In conclusion, we think that the scope of the problem necessitates a national commitment to the strengthening of child support enforcement.

[The prepared statement of Ms. Kolker follows:]

STATEMENT OF ANN KOLKER, ON BEHALF OF THE NATIONAL WOMEN'S LAW CENTER

Good morning, Senator Dole and other members of the Finance Committee. My name is Ann Kolker and I am a policy analyst with the National Women's Law Center. The Center has worked extensively on women's issues over the past ten years. Our work on problems faced by low income women, especially AFDC and child care issues, has brought us before this Committee before. We are pleased to be here today to offer our support for the Economic Equity Act, and to discuss in particular Title V -- Child Support Enforcement.

As members of this Committee well know, a Child Support Enforcement Program has been in effect since 1975, when Congress -- with strong impetus from this Committee -- passed the Child Support Enforcement Program as a new Part D of Title IV of the Social Security Act. Each state has set up a child support enforcement office, known as the IV-D office. Collection efforts on behalf of families owed support payments are currently being made in every state. While the National Office of Child Support Enforcement points to the growing total of collections -- nearly 1.8 billion dollars in 1982 -- as evidence of the success of the program, there are others -- including the Center and the sponsors of the EEA -- who believe that there is great room for improvement. We are pleased to see that many of the deficiencies of the current program have been addressed by Title V of the EEA and are here today to share with the Committee our views on this measure.

It is altogether fitting that provisions to improve child support enforcement are part of the Economic Equity Act. For when one compares the statistics on the economic burdens experienced by single female headed households with statistics on collections of child support payments, it is clear that the inadequacy of child support payments contributes to the low income levels of so many female headed households.

Consider these facts about households maintained by women:

o There were 6.8 million single parent families in the U.S. in 1982, 22% of all families. Women head 90% of these families.

o More than one-third of the households maintained by women live in poverty, and over one-half of all children in poverty live in female headed households.

o The National Advisory Council on Economic Opportunity estimates that if the current growth of female headed households in poverty continues, by the year 2000 women and children will make up 100% of the country's poor.

o One-third of the single adult female headed families depended on AFDC in 1980.

o Divorce has contributed to the rise in single parent families. Every year there are almost half as many divorces as marriages -- about 1.2 million. The Census Bureau predicts that only half of all children born this year will spend their entire childhood living with both natural parents.

o Divorce can alter a woman's economic status overnight. Since the mother becomes the custodial parent in most cases, her lower earning capacity, coupled with the expenses of raising a child, means she will suffer a steep decline in income. One study (from California) found that a year after divorce, the wife's income dropped by 73% while the husband's rose by 42%.

And consider these unsettling facts about child support:

o Only 35% of the 7.1 million women bringing up children from an absent father received any child support payment in 1978, and only 24% received full payment.

o Stated another way, 65% of the women with children from an absent father were raising their children without any financial assistance from the absent father.

o Only 60% of the women bringing up children from an absent parent have an award for child support.

o Thousands of women with awards report receiving only partial and erratic payments. One recent survey indicated that fewer than 10% of the individuals with child support obligations are in voluntary compliance several months after the support is ordered.

These figures speak for themselves. They make a compelling case for the need to strengthen the child support enforcement laws, so that parents can achieve for their children the economic security that the children are entitled to. While ability to pay may have some impact on the receipt of support payments, the fact that nearly two-thirds of the women bringing up children from an absent father do not receive any financial support makes passage of Title V of the Economic Equity Act absolutely vital.

The scope of the child support enforcement problem makes it important that state child support enforcement offices handle cases of all families -- not just those whose children are receiving public assistance. Therefore, we are pleased to see that the new bill continues the current requirement that states serve all families seeking assistance in enforcing child support.

Despite the current law requirement, many states have in fact limited their enforcement to families receiving AFDC. Because collections for AFDC families are simply used to offset a family's welfare grant, the current child support enforcement program offers more fiscal relief to state budgets than assistance to needy children. The National Council of State Child Support Enforcement Administrators, in their February, 1983 report, acknowledges that states are strongly encouraged to emphasize collections for families on AFDC to the exclusion of other eligible families. Additionally, many women across the country seeking help from the child support enforcement office within their state report frustration in obtaining agency cooperation if they are not welfare cases. Non-enforcement for non-AFDC families is a problem of significant proportions. Moreover, the Administration, by proposing a restructuring of the federal reimbursement formula has sent a clear signal that AFDC collections should be the sole priority. In contrast, Title V of the EEA, by requiring improvements in state collections that will benefit non-AFDC as well as AFDC families, is a significant step forward for all families in need of prompt, regular, and adequate child support from absent parents.

In recognition of the importance of serving all families with child support enforcement problems, the purpose clause of the bill has been amended to restate that the program must serve all children. We applaud the objective here, but note that the new clarifying purpose language merely restates rather than revises the intent of existing law.

The Center suggests one minor change in the language of the amendment to the purpose clause to ensure that all children are served. This clause reads, "The purpose of the program authorized by this part is to assure compliance with obligations to pay child support to each child in the United States living with one parent." The phrase "living with one parent" may exclude children owed support living with grandparents or other relatives. Hence, we suggest that the phrase "living with one parent" be deleted. This change will clarify that every child owed support is entitled to collect it through the program.

The Act now covers collections of child and spousal support for individuals with whom a child is living. We believe it should be expanded to include individuals without dependent children who are seeking alimony or spousal support. Few women are awarded alimony, and those who are are usually individuals with severe need. These women are often disabled or have been out of the labor force a very long time and have no way of obtaining financial independence. Yet the financial security that alimony provides them is every bit as critical to their economic stability as child and spousal support is to women with dependent children and they, too, are entitled to the assistance of the state IV-D office.

We also support the provisions of the legislation expanding the income tax refund intercept. In 1981, Congress amended the Child Support Enforcement Program to permit the Internal Revenue Service to deduct past due child support owed to families receiving public assistance from income tax refunds of absent parents. Section 502(a)(b)(c) expands the IRS authority to deduct past due support payments from the refunds of all absent parents, even those whose children are not on AFDC. We are concerned, however, about the bill's provision permitting the IRS to charge a fee for the costs involved, particularly because the Act already authorizes states to assess fees for serving non-AFDC families. This is a heavy dose of fees and could substantially cut into payments that women expect to receive. To the extent that a provision for a fee is included, we urge that the legislative history reflect that the fee be reasonable and that adequate guidelines to ensure proper notice to the parent owing support are developed.

The heart of Title V is the requirement that states establish a clearinghouse or comparable procedure to collect and disburse support payments, to monitor the timeliness of payments, and to trigger enforcement mechanisms if arrearages develop. This clearinghouse appears to be modeled on successful state programs. We are pleased that all states will be required to establish the kind of enforcement program whose effectiveness has already been proven.

The important aspect of the "clearinghouse" approach is that it permits separating and divorcing parents to remove the issue of child support payments from any emotional tumult between the parents. The clearinghouse provides a kind of neutral mechanism to collect and disburse payments, and thus insulates the obligations owed the child from the discord that the parents are experiencing. The absent parent makes his or her payment directly to the clearinghouse, and, more importantly, if a payment is not forthcoming, the clearinghouse notes the deficiency and initiates action, relieving the parent to whom the obligation is owed of hiring a lawyer to enforce the order. Because complete and timely support payments are so vital to a child's well being, the establishment of a child support clearinghouse in every state is important to ensure that complete and regular payments are received by every family owed child support.

Another important feature of the clearinghouse is that it will help to ameliorate the problem of arrearages which often build up to the point where even the most vigorous efforts cannot recover the full amount of support owed. A carefully set up computerized monitoring system will track all payments received, will be programmed to flag delinquencies immediately, and trigger some kind of enforcement mechanism. Prompt action must occur. This will prevent the accumulation of past due support which plagues so many families and puts such a strain on the enforcement efforts of the IV-D offices now.

On the critical issue of enforcement, we think there is a need to clarify that arrearages confirmed by the clearinghouse should result in timely enforcement actions. Both the language of §503(a)(10)(D) and the legislative history should be written to reflect that prompt enforcement actions such as mandatory wage assignments must be triggered when delinquencies of two months occur.

Section 504(a) of the Act spells out procedures which states must develop in order to improve collection efforts. The provisions set forth in this section are generally sound, though we are not clear what criteria were used in making some of the procedures mandatory and others optional. Careful consideration should be given by the Committee to ensure that the most needed of these procedures are the ones that are made mandatory.

Sections 504(a)(21),(22) & (23) are essential for the strengthening of enforcement efforts. They would require states to: implement mandatory wage withholding laws when arreages of two months or more occur; provide procedures for imposing liens against property for past due support; and, for states with a state income tax, require that a refund intercept be authorized to collect past due support obligations. One minor concern on (21), the mandatory withholding provision, is that the measure as currently drafted requires "mandatory withholding and payment of past-due support. . .from wages." We believe that "wages" is too narrow a term and that the language should be clarified to ensure that consulting fees, monies earned by the self-employed, etc. would definitely be included.

Section 504(a)(20) requires states to seek medical support from absent parents for children for whom it is seeking financial support. The thrust of this provision is undoubtedly a good one. However, we can envision a situation in which a custodial parent has excellent employer provided health insurance coverage, and might prefer a larger support award to medical coverage. Thus, the statute should require that states have the authority to seek medical support from the absent parent in the appropriate situation, but not that they be obligated to do so in all cases.

Section 504(a)(24) which requires states to provide quasijudicial or administrative procedures in the establishment, modification and collection of support obligations and in the establishment of paternity is problematic. There is no doubt that an administrative or quasijudicial procedure is usually speedier than a judicial proceeding and therefore expedites the whole process for individuals seeking support payments. In this sense, administrative and quasijudical procedures are beneficial. On the other hand, removing the establishment of paternity and support obligations from the courts and turning over these important matters to an administrative body may not be a good idea. First, there may be state constitutional problems. Second, these agencies may lack the requisite experience to do the job adequately. Indeed, such a procedure has resulted in disparities in support awards between those established by administrative and quasijudicial bodies and those established by the courts. Hence the language should be changed to clarify that the administrative body is not authorized to assist in the "establishment" part of the collection effort.

Finally, we have some questions about the last provision, 504(a)(25)(E), which would require the states to use "an objective standard to guide the establishment and modification of support obligations, by measuring the amount of support needed and the abilty of an absent parent to pay such support, such that comparable amounts of support are awarded in similar situations." We recognize that there is an enormous variation in the awards which similarly situated people receive -- even in the same jurisdictions -- and we applaud the intent of the drafters in attempting to rectify these disparities. "Comparable amounts in similar situations" is an important and admirable objective. However, research indicates that there are several approaches used to guide courts in the setting of awards. A commonly used method is to base the award level on the needs of the child. A problem with this method is that it results in a dramatic decline in the standard of living for the children and mother while the father enjoys an increase in his living standard. A better approach recognizes that if there is a reduction in income because two households must now live on the funds previously available to one household, there should be an equal sharing of available resources. This approach is generally more equitable for women.

What is important for the purpose of this bill, however, is that improving criteria for support awards is just getting under way. As a result, we think that it is premature to require the use of objective standards. The Center recommends that the legislation reflect the importance of developing objective standards and that provision be made for a study to come up with guidelines that could be adopted in the future.

There are two further problems with child support enforcement that are not addressed in the Economic Equity Act. First, as has been previously pointed out, when support is collected for AFDC families, the payment goes to the state welfare office and simply offsets the family's public assistance grant. The main beneficiary of the collection is the state, unless the support collected is greater than the welfare standard. Therefore the family receives no real monetary benefit from the collection. Moreover, if the family is rendered ineligible for AFDC, they may lose Medicaid eligibility as well, although the support award is insufficient to cover their medical costs. Several options are available to increase the monetary benefit of support collections for AFDC families. A disregard of part of the award could be provided. This was done when the child support enforcement program was originally enacted, as an incentive for women to cooperate in identifying absent parents. Another option would be to continue Medicaid eligibility for several months for the families whose child support payments remove them from the public assistance roles. This is currently done for four months when AFDC families are rendered ineligible fo assistance because of earnings.

Another obstacle to effective child support enforcement exists in some states that impose statutes of limitations in paternity actions. These provisions preclude many children born out of wedlock from ever pursuing their rights to support. In recent years, the Supreme Court has struck down as unconstitutional several state statutes which deny an illegitimate child the same right to support and to establish paternity that a legitimate child has. Just two weeks ago, in Pickett v. Brown, 51 U.S.L.W. 4655 (June 7, 1983), the Court declared unconstitutional a two-year statute of limitations for paternity actions. State courts in at least six states (Arkansas, Florida, Kansas, Montana, New Mexico, North Carolina) have also invalidated statutes of limitations for paternity actions as unconstitutional.

The Supreme Court, of course, can only decide the cases before it. Statutory limitations on paternity actions of longer than two years remain a problem in several states, however. According to the National Conference of State Legislatures, as of 1981 a majority of states required that paternity actions be initiated within a specified time period ranging from one year after birth to six years after majority. We therefore urge the Committee to add to the bill a requirement that states ensure that limitations on the right to file for child support be no greater for children born out of wedlock than for other children. To ensure simple justice for all children seeking support, special statutes of limitations on paternity as distinct from other support actions should not be permitted.

In conclusion, the failure of nearly two-thirds of today's absent parents to support their own children should encourage this country to make a national commitment to strengthen child support enforcement. Title V of the Economic Equity Act which requires states to improve their child support collection efforts represents an important step in this direction. The Center urges prompt passage of the measure so that children begin to receive the financial support from both parents to which they are fully entitled.

Senator PACKWOOD. Thank you very much. I'm going to call on Senator Domenici, but Sherri, let me ask you, were you going to testify too? No? Just accompanying your mother?

Ms. MURPHY. She's here to answer any questions from a child's point of view.

Senator PACKWOOD. OK. But she wasn't planning to make a statement. I do have some questions, so if you will just hang on until I take Senator Domenici's statement.

STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR, STATE OF NEW MEXICO

Senator DOMENICI. Mr. Chairman, I thank you very much and I'm most appreciative that you are taking me now. I thank those of you who are going to answer questions for indulging me for just a few moments.

It's a pleasure to be here and testify with reference to the Pension Equity Act of 1983, S. 19. I think the basic issue is one of fairness, which affects all of us. In 1974 the Employee Retirement Income Security Act [ERISA], was passed to insure that workers who are covered by pension plans receive the benefits for which they are eligible. Any employer who wishes to get the tax benefits which accompany having a company pension plan must meet the requirements of ERISA and relevant portions of the IRS code.

Some parts work well, however, after 8 years of experience under this law, it's obvious that ERISA as written works to the disadvantage of working women, wives, widows, and mothers. I think it's an alarming fact that in 1979 only 40 percent of the women working full time in the private industry of our country were covered by a pension plan, and that only 5 percent to 10 percent of the surviving spouses actually received their spouses pension benefits.

The bill should significantly improve the chances that women will receive benefits under the pension plan, yet the proposal is designed to minimize disruption in the plan administration and increases in the cost of providing the benefits.

WOMEN AS WORKERS

Probably the most important area for improvement in terms of equity, is to lower the age at which service with an employer must be taken into account for pension plan coverage. One might not have thought years ago that this would work to the detriment of women in a very discriminatory manner, but a review of the facts would indicate that it does.

Existing provisions of ERISA require employers with qualified plans to allow an employee to participate in a pension plan on the latter of two dates: The date the employee reaches age 25, or the date the employee completes 1 year of service. An employee who begins work at the age of 18, for example, must work a minimum of 7 years for the same employer before acquiring the right to participate.

Conversely, one who enters the labor force at 24 has to work only 1 year for the same right. Lowering that age to 21 would have a dramatic impact on women. Women in the 20-to-24 age bracket have the highest labor force participation rate among women—as of 1978, 68 percent projected to increase to 77 percent in 1985 fall under that particular age bracket.

Existing laws that do not take into account the fact that women enter the work force at a younger age, frequently right out of high school or college. According to the Bureau of Labor Statistics, 70.6 percent of all women ages 20 to 24 were in the work force in 1982. The high percentage of women's work for participation continues until about age 30, and then it begins to decline. So a woman who began work at the age of 20 and left at 31 for whatever reason has worked 10 years, but only gets 6 years of pension credit. This would be changed dramatically by this bill and it should be.

WOMEN AS MOTHERS

The same rationale applies to women as mothers. Presently, all prior service with an employer must be taken into account only if the period of absence from work is shorter than the number of years of service with the employer. Reducing the participation age to 21 will have the additional benefit of requiring that years of service with the employer be taken into consideration for the so-called breaks-in-service rule.

I'm sure the committee and you, Mr. Chairman, are aware of that. There are some very similar problems in terms of women as spouses. There is a lot of confusion that exists here. My statement goes into some detail, and I would ask that with reference to that aspect of my testimony it be made a part of the record.

Senator **Packwood**. The entire statement will be.

Senator **Domenici**. Thank you, Mr. Chairman.

WOMEN AS FORMER SPOUSES

Another area that has caused much confusion is to what extent Federal pension laws affect how pension benefits can be treated in a divorce case. S. 19 will clarify Federal law so that accrued pension benefits may clearly be subject to a State law property settlement pursuant to divorce or separation agreement. However, the law will also be made clear that no pension plan will be required to distribute pension plan assets prior to the retirement of the pension plan participant.

Under ERISA, with limited exceptions, pension benefits may not be assigned or alienated. In common law States the courts have complicated the subject by holding that ERISA does not preempt State law permitting attachment of vested and nonvested benefits to meet family support obligations such as alimony, separate maintenance and child support. In community property States there is a divergence of opinion among the courts as to whether ERISA preempts State community property laws as they relate to married couple's rights under a pension plan.

S. 19 would clarify this issue by eliminating the prohibition against assignment of benefits pursuant to divorce decrees. This change is important to mothers with small children because between a quarter and a third of divorced fathers never make a single child support payment. In 1975, Congress established the child support enforcement program. This was a good first step,

S. 19 is another. However, more needs to be done in this area, and I am looking at other legislative solutions.

WOMEN AS WIVES AND WIDOWS

Under present law, generally, if a pension plan provides for a benefit in the form of an annuity, it must be in the form of a joint and survivor annuity unless the employee elects otherwise. There is presently no requirement that the nonworking spouse be notified. S. 19 will change this rule to require the consent of the nonemployee spouse to elect out of a joint and survivor annuity coverage.

As anyone who has read the fine print of a pension plan knows, the provisions are lengthy and confusing to anyone other than a pension lawyer. Many benefits are lost in the maze of subparagraphs and intricate clauses. The fine print can take away benefits that beneficiaries and recipients expect to be there.

S. 19 requires that a statement of benefits include a notice of any benefits that are lost in the event the participant dies before a particular date. Disclosure of such facts allows couples to make informed contingency plans for the future. This is a vast improvement over the present situation where a widow learns that she has no benefits when her claim is denied.

This bill brings fairness to the areas I have explained above. However, there are other problems that need to be called to the committee's attention that also require a legislative answer. Let me point them out by way to true life examples:

What happens when a husband who worked for a company for 29 years dies 13 days before his 55th birthday? His widow was denied benefits. Under ERISA, if a participant dies before he retires the survivor benefit can be withdrawn, and the widow was entitled to nothing. I would like to see some equitable changes in this area.

What happens when a working spouse choses a joint and survivor benefit within 2 years before he dies of a heart attack, or other nonaccidental death? ERISA, as written, allows plans to deny widow's benefits if an otherwise qualified spouse dies within 2 years of choosing survivor benefits if the death is from natural causes. The committee also needs to find a solution to this problem.

S. 19 does not cure all the problems of pension and retirement benefit discrimination but it is an important step that I urge Congress to take. I am committed to advance, guarantee, and promote economic equity for women during their working careers and during their retirement years.

Thank you, Mr. Chairman.

Then we have the same problem in terms of women as wives and widows. There is a great deal of confusion under the present pension system and under ERISA as to whether or not a woman has any significant rights in and to the pension accumulated by her spouse. There is a great deal of confusion even in that body of law called community property law, which exists in my State, which could be greatly clarified under the provisions of Senate bill 19 with reference to the rights of the spouse to alter or amend pension rights without the spouse knowing that it's occurring. I think these ought to be fixed. Certainly I understand the difficulty you, Mr.

Chairman, and the committee will have, but I compliment you for taking on this cause. It's one that's long overdue.

From my standpoint I wholeheartedly support your effort and hope that in the not too distant future I can go beyond supporting it here and support it when you bring it to the floor.

Thank you very much.

[The prepared statement of Senator Domenici follows:]

STATEMENT OF SENATOR PETE V. DOMENICI
BEFORE THE FINANCE COMMITTEE
JUNE 21, 1983

MR. CHAIRMAN, It is a pleasure to appear before the Finance Committee to testify on the Pension Equity Act of 1983, S. 19. I think the matters that are addressed in this bill are fairness questions that affect us all.

In 1974, the Employees Retirement Income Security Act (ERISA) was passed to insure that workers who are covered by pension plans receive the benefits for which they are eligible. Any employer who wishes to get the tax benefits which accompany having a company pension plan must meet the requirements of ERISA and relevant portions of the Internal Revenue Code.

Some parts of ERISA have worked very well. However, after having eight years of experience under this law, I am concerned that ERISA, as written, works to the disadvantage of working women, wives, widows and mothers. I think it is alarming that in 1979 only 40 percent of women working full-time in private industry were covered by a pension plan and that only 5 percent to 10 percent of surviving spouses actually receive their spouses' pension benefits.

This bill should significantly improve the chances that women will receive benefits under pension plans, yet the proposal is designed to minimize disruption in plan administration and increases in the costs of providing benefits.

Women As Workers

Probably the most important area for improvement in terms of equity is to lower the age at which service with an employer must be taken into account for pension plan coverage.

Existing provisions of ERISA require employers with qualified plans to allow an employee to participate in the pension plan on the latter of two dates:

the day the employee reaches age 25 or the day the employee completes one year of service. An employee who begins work at age 18, for example, must work a minimum of seven years with the same employer before acquiring the right of pension participation. Conversely, one who enters the labor force at 24 must work only one year for the same right. Lowering the age to 21 would have a dramatic impact on women. Women in the 20 to 24 age bracket have the highest labor force participation rate among women - as of 1978, 68.3 percent projected to increase to 76.8 percent in 1985.

Existing pension law does not take into account the fact that women enter the work force at younger ages, frequently right out of high school or college. According to the Bureau of Labor Statistics, 70.6 percent of all women ages 20-24 were in the work force in 1982. The high percentage of women's work force participation continues until age 30 when it declines to 47.5 percent. A woman who began working at age 20 and left her job at age 31 to have a child has worked 10 years but only receives a six year pension credit. Under S. 19 she would receive full credit for ten years. S. 19 corrects this inequity.

Women As Mothers

Presently, all prior service with an employer must be taken into account only if the period of absence from work is shorter than the number of years of service with the employer. Reducing the participation age to 21 will have the additional benefit of requiring that years of service with the employer be taken into consideration for the so-called breaks in service rule.

In addition, the bill will allow up to one added year of absence due to the birth of a child without the employee losing credit for prior service with the employer if the employee returns to work.

Women As Former Spouses

Another area that has caused much confusion is to what extent Federal pension laws affect how pension benefits can be treated in a divorce case. S. 19 will clarify Federal law so that accrued pension benefits may clearly be subject to a state law property settlement pursuant to divorce or separation agreement. However, the law will also be made clear that no pension plan will be required to distribute pension plan assets prior to the retirement of the pension plan participant.

Under ERISA, with limited exceptions, pension benefits may not be assigned or alienated. In common law states the courts have complicated the subject by holding that ERISA does not preempt state law permitting attachment of vested and nonvested benefits to meet family support obligations such as alimony, separate maintenance and child support. In community property states there is a divergence of opinion among the courts as to whether ERISA preempts state community property laws as they relate to married couple's rights under a pension plan.

S. 19 would clarify this issue by eliminating the prohibition against assignment of benefits pursuant to divorce decrees. This change is important to mothers with small children because between a quarter and a third of divorced fathers never make a single child support payment. In 1975, Congress established the Child Support Enforcement program. This was a good first step, S. 19 is another. However, more needs to be done in this area, and I am looking at other legislative solutions.

Women As Wives and Widows

Under present law, generally, if a pension plan provides for a benefit in the form of an annuity, it must be in the form of a joint and survivor annuity unless the employee elects otherwise. There is presently no requirement that the non-working spouse be notified. S. 19 will change this rule to require the consent fo the non-employee spouse to elect out of a joint and survivor annuity coverage.

As anyone who has read the fine print of a pension plan knows, the provisions are lengthy and confusing to anyone other than a pension lawyer. Many benefits are lost in the maze of subparagraphs and intricate clauses. The fine print can take away benefits that beneficiaries and recipients expect to be there.

S. 19 requires that a statement of benefits include a notice of any benefits that are lost in the event the participant dies before a particular date. Disclosure of such facts allows couples to make informed contingency plans for the future. This is a vast improvement over the present situation where a widow learns that she has no benefits when her claim is denied.

This bill brings fairness to the areas I have explained above. However, there are other problems that need to be called to the committee's attention that also require a legislative answer. Let me point them out by way of true life examples:

What happens when a husband who worked for a company for 29 years dies 13 days before his 55th birthday? His widow was denied benefits. Under ERISA, if a participant dies before he retires the survivor benefit can be withdrawn, and the widow was entitled to nothing. I would like to see some equitable changes in this area.

What happens when a working spouse choses a joint and survivor benefit within two years before he dies of a heart attack, or other non-accidental death? ERISA, as written, allows plans to deny widow's benefits if an otherwise qualified spouse dies within two years of choosing survivor benefits if the death is from natural causes. The committee also needs to find a solution to this problem.

S. 19 does not cure all the problems of pension and retirement benefit discrimination but it is an important step that I urge Congress to take. I am committed to advance, guarantee and promote economic equity for women during their working careers and during their retirement years.

Thank you, Mr. Chairman.

Senator **Packwood**. We had some good testimony yesterday, Pete, and the testimony we have had today flushes it out of actual people who were involved. I don't mean executive secretaries of trade associations, I mean spouses, normally women, who were involved in one way or another in a discriminatory situation.

Yesterday it was pension. We had two women whose husbands had died—in fact, one is alive but has cancer and will die—before their pensions vested at 55, in one case. The argument came up concerning the pension industry and subsequent opposition to requiring that the survivors be paid something—the trade-off is life insurance, and that the industry just take it out of their life insurance company plans if they have to pay it in pensions.

One woman would have received $7,500 a year for life: she was 48 with three children. She received a trade-off of $49,000 in life insurance. The other women received $15,000 in life insurance, whereas she would have received a pension of $290 a month had her husband lived. All of them have minor children. Social Security cannot support them. In one case, one woman had a husband who works for IBM, who is dying, who was making a reasonably adequate salary, but whose pension will not now take care of his families financial problems.

I don't have any more questions of you, but I do have some questions.

Senator **Domenici**. I was going to suggest, Mr. Chairman, that when you get complaints from the other side of the issue. You remember that we have gone through this before and they lost. There is a good body of law that will support you as it has those of us that advocated a change in the military pension distribution which is very similar. As you know, the United States Supreme Court ruled about 3 years ago that a military pension was not subject to State court jurisdiction. As a consequence, in my State I had a number of women who had been divorced after years of marriage to a military man and were thrown into economic dire straights because all the husband did was move to another State where she couldn't get jurisdiction over his person and got the divorce ajudicated and left the pension over here being disbursed out of the Department of Defense, and couldn't be used to even enforce a decree on property settlement or on support.

We have now changed that law, and basically a military pension is subject to the same jurisdiction as any other property right, and the Department has to distribute the pension check pursuant to a valid court order. At the time we passed this change there were all kinds of hews and cries that administrations it would be impossible and cumbersome. I imagine it's working well and I don't think they had to hire a thousand people to do it either because I imagine the district courts are getting it done nicely. Before we made the change the Courts just shrugged and said, "We can't do anything."

The military pension situation is very similar to some of the testimony we've heard today on child support and the like. Based on my experience and the testimony given today I am convinced that it takes some kind of clearinghouse, some way to get at certain assets, pensions to satisfy child support and alimony obligations. I am glad you are discussing the various solutions today.

I thank you very much.

Senator PACKWOOD. Pete, thank you very much for coming.

Mr. Cannizzaro, I want to make sure I understand what you are recommending on page 5 of your testimony. The minimum child subsistence payment—you're saying just pass a Federal law that says in every divorce case the spouse who gets custody will be awarded *x* amount per child—$200, $300, $400, whatever the figure is, and that becomes a figure enforceable throughout the land, whether it be in State court or Federal court, but it's a federally mandated minimum payment. It would in no other way alter the right of a State court to dictate a higher payment, would do nothing but set a floor.

Mr. CANNIZZARO. This is just a floor that we recommend and certainly any monies that the State wants to grant over and above that is certainly welcome to the spouse, that's for sure.

Senator PACKWOOD. Now I want to go down the line of witnesses if I might, and I'll start with you, Ms. Welsh.

There have been arguments made that the States are reasonably receptive to trying to chase down errant husbands when it involves an AFDC wife, due to the incentive for reimbursement of these welfare costs. But the States are not as enthusiastic in pursuing non-AFOC cases. Could you, to the extent you have had comments on either case, comment on this? I'd like to get that information in the record.

Ms. WELSH. Yes. I am a non-AFDC. I have supported my children, albeit not terribly well, but on my own since the divorce with some help from family. The court is much less vigorous in supporting my case. Also, once my case was recognized through the ERISA system as one with a husband who really didn't want to pay and was going to make it difficult, it was shuffled to the bottom. They are very honest and open about telling you, and to be fair, I can understand their point of view. Let's go after the ones we can get. But the ones they can get are not necessarily the ones that they should be going after first.

The arrearages in my case are absurd. They are then relieved. Yes, I would say from what we know of people who have come into our groups that non-AFDC parents do not fare as well in the court system. I was told quite frankly, and it's why I started FOCUS—I was talking to the ERISA officer in the State of Virginia, and it was about the fifteenth phone call I'd made in two weeks because that's the only way that you get anything done. You keep calling. And he said, "You don't seem to understand that child support enforcement is the lowest rung on the totem pole in the eyes of the court." And I said, "Sir, do you realize that you are a court officer telling me that?" He said, "Yes." I said, "What do I do?" He said, "I don't know." And I said, "Well, it's wrong. I'm going to do something about it." He said, "Good. I hope you do." Go start a group. Thank you.

Senator PACKWOOD. I was afraid that was the answer.

Do you have anything to add to that, Mr. Cannizzaro? I don't know if you have had any personal experiences or not.

Mr. CANNIZZARO. No, I don't have a personal experience, but in going over some background I can say that one thing that we did receive was in the Federal Register. We noticed that the Office of Child Support Enforcement has a notice of proposed rulemaking, and they go back to what Ms. Welsh has said about the wrong priorities in terms of collections, if you read through this proposed rulemaking, they propose to make things a little bit better in the sense for themselves because what they say here is priority number one is basically the person that has a job, that has money, that has this and that—something that they can collect from. The problem is in real life that those other people, not the people that have the money, are the ones that are really the ones that need these child support payments. The proposals and their rules and their attitudes seems to be let's make the statistics better, but unfortunately that's not going to help the people who really need this support.

Senator PACKWOOD. Ms. Kolker?

Ms. KOLKER. Yes, I'd like to comment by going back to the original purpose of the Child Support Enforcement Program that was established in 1975. As I understand it, and I've gone through the legislative history that this committee has developed, the program was set up to assure compliance with obligations to pay child support to each child in this country, and it was set up as a program to serve children and not to serve State governments.

Senator PACKWOOD. Yes, but I need some personal evidence as to how States have looked at the child support enforcement situation. They have said, "Yes, we realize it's equal"; but it's kind of like George Orwell; all animals or errant fathers are created equal, and the ones that are the most equal are the ones that the State will get something out of if they seek to collect it, as opposed to those who they won't. And they almost look at it from a revenue base for their State, to the extent they can collect.

Ms. KOLKER. Absolutely. The perspective that I can bring is from a national organization. I fully support the experiences of my panelists here, and I think that they have given the best evidence. The need is no greater whether you're receiving public assistance or not in view of the scope of the problem with only 35 percent of the women who are bringing up children by themselves receiving any payment at all. I think that the problem is of such a magnitude that there is really an obligation to serve all families and not just those receiving public assistance.

Senator PACKWOOD. Actually I was in Congress on this committee when we passed it, and I remember the opposition to it was twofold. One was basically civil libertarian: That the enforcement program was going to open up records that should not be opened up, and as I recall, although I can't remember exactly, the American Civil Liberties Union may have testified against it. The other argument is that it would simply cost more money than Government would collect; therefore, the program would not work. Well, indeed it has not worked perfectly, but it has worked better than any of the critics expected it would, and I think we can build upon that base to make it work better.

Ms. KOLKER. But there's a vast need for improvement and we are pleased with these provisions which I think address many of the major deficiencies.

Senator PACKWOOD. Ms. Turner?

Ms. TURNER. Yes; in 1978 I was left with two infants, and I found myself in the humiliating experience of being a college graduate on welfare. Fairly quickly the State acted and extracted a wage assignment on my ex-husband's check. Within 8 weeks I was fully employed because that wage assignment enabled me to pay for child care. After paying my child care expenses, I had only $25 left of the child support when it was received. So imagine the predicament that millions of families are in. No one is getting rich off the child support. It's the terrible problem of trying to collect it.

When I became fully employed, I went to the local enforcement agency because my ex-husband was trying to avoid payment and I was told, "Well, at least you're working." As if I didn't need the money. If I hadn't received that money I could have quickly slipped back onto the welfare rolls. In the hundreds of letters and phone calls we have received from all over the country, my experience has been repeated over and over again in every State.

Senator PACKWOOD. You know, that is a problem we find in many areas. With all of our sympathies, we on occasion find a way to take care of the very, very poorest element of society. But those persons who are just above the welfare cutoff line are in a desperate situation. They are working, they are barely holding body and soul together, and their medical and other expenses are just as expensive as anybody else's expenses; yet I can see them getting kicked around from pillar to post. They're not quite eligible. They don't quite fall beneath the standard, and on and on.

Senator PACKWOOD. Ms. Kelly.

Ms. KELLY. I'm the kind of person that ends up on welfare for 3 months, then I'm off for 6. Then I'm back on for 3, then I'm off for 6. And I'm filling out form after form, and my ex-husband is driving around in a Mercedes Benz, and I'm trying to support three small children. Last year my ex-husband's income tax check was intercepted. I had been on welfare for 3 months. The State was owed less than $500; I was owed over $8,000. In between the time that I was off and I went back on, the check was intercepted. The State got paid back all that they were owed, and he pocketed $1,000 and I wasn't even on welfare at the time, and I had three children and we were facing shutoff notices. Now, if we don't expand the tax intercept for working mothers—I mean I know the State wants to offset welfare costs, and I don't want to be on welfare, but I was off welfare, and then there was $2,000 I could have used to stay off. That's probably a good two-thirds. Now, I could probably get in cash from the government $325 a month. If I could have gotten $2,000, how many months could I have stayed off welfare.

Senator PACKWOOD. Your husband's income when you divorced was around $50,000?

Ms. KELLY. Yes.

Senator PACKWOOD. And what is it now?

Ms. KELLY. I have no idea. I understand he quit his job.

Senator PACKWOOD. Ms. Murphy.

Ms. MURPHY. Yes, sir.

Senator PACKWOOD. Have you had any experience with being on and off of AFDC, and with the willingness of the State to help collect payments or enforce them when you were on AFDC but not when you were off?

Ms. **Murphy**. I never reached the point where I was eligible for welfare. The problems that I have experienced mainly are with nonuniformity, not only within the State, not from State to State, but also within the States from county to county, how one parent can just hop over a county line and you have to start your case all over again. And so many of the States are experiencing resistance from cooperation from other States in interstate cases, and that's a big problem.

Senator **Packwood**. I don't think—yes. Ms. Welsh.

Ms. **Welsh**. One of the things that surprised me is talking to collection support professionals in various States, there are certain States that they would rather not pursue a case in. Priorities are listed. Boundary States are usually easier; the reciprocation is better. If the spouse of a woman is in a State where her State really doesn't have a very good relationship, that case will not be pursued. So it's almost like you have to say to your ex-spouse, "well, listen, go to Kentucky because the State I'm in deals real well with Kentucky, but if you go to Mississippi, I'm out of luck," and obviously those are two States I've just pulled out of the air, but I think that's a very real problem, and that's a real problem with the professionals in the field. They're finding that there are certain States that they don't care to deal with.

Senator **Packwood**. You were very charitable in your testimony. You said that you understand the States' problems; that they probably have more cases than they can possibly handle individually, and that they're looking at which cases they can collect and whether other States will cooperate. Considering your position, I find you very charitable in your attitude.

Ms. Kolker.

Ms. **Kolker**. Is this working? Let me just add one note here. The current legislation as I understand it does permit the States to charge a fee to non-AFDC recipients and we think that this is certainly valid. That would be one way in which States could expand their collection if it's on behalf of non-AFDC people. I believe that fewer than half of the States currently charge a fee, and our organization does not have any problems with the imposition of a fee.

Senator **Packwood**. Ms. Turner.

Ms. **Turner**. What we're hearing, though, from some of the other States is when the support is finally collected, the enforcement agency will assess a fee to the custodian rather than to the absent parent, whereas the custodian isn't collecting any interest on these thousands of dollars of outstanding arrearages. We would like to see any fees assessed to the absent parent.

Senator **Packwood**. I agree with you. Ms. Kelly?

Ms. **Kelly**. I think that Ms. Kolker and I, in our group, disagree somewhat on standard objectives for child support enforcement. I'm not sure and I want to clarify this, but we kind of feel that every child deserves the benefit that if his parents make in the six figures, that those children should be able to take tennis lessons. They shouldn't be living at a poverty level. I think that there is a lot of discussion as to how much it costs to raise a child rather than what the parents have to offer a child, and my stand is that if my ex-husband can afford for my children to have a few extra privileges like braces and so on, that they deserve those kinds of privileges.

Senator **Packwood**. I don't think anyone was saying that would not be the situation. They are simply saying there ought to be a minimum guaranteed child support, and if the courts want to go above that, indeed if you have got a husband in six figures, the court clearly would go above it. But you have got some situations where the courts will go so far below it there is just no point in pursuing it. It just isn't worth the time or money.

Ms. **Kelly**. Well, this year there is a formula that is used, and it has been very effective.

Senator **Packwood**. Well, I used to practice law in Oregon. In theory there is a formula everyplace, but by the time you look at the husband, when he has extraordinary bills, the formula is changed. Really, it was observed more in the breach than it was observed in the following.

Mr. **Cannizzaro**. I'd just like to say that if you take x number of formulas and x number of judges and put them together, you get five times x assessments on child support.

Senator **Packwood**. I know. That's exactly right.

Folks, again I want to thank you very much and tell you why. In my experience in dealing with bills of this kind, we need the specific kind of testimony which each of you have given. Aggregate figures are nice, but aggregate figures are billions and billions, and they don't make as much impact as individual cases. "This is what happened to me." "This is how it happened to me." What you have given us today will be most helpful in getting this bill or portions of it passed. Thank you very much.

Senator **Packwood**. We will conclude today with a panel of Sandra Crawford representing the junior leagues, and Deanna Somers, the vice president for legislative affairs of Parents Without Partners.

Both of your statements will be in the record in their entirety. Why don't we wait just a second until the people who are leaving leave.

All right, Ms. Crawford. Go ahead.

STATEMENT OF SANDRA CRAWFORD, PUBLIC POLICY CHAIRMAN, THE ASSOCIATION OF JUNIOR LEAGUES, INC., GLADWYNE, PA.

Ms. **Crawford**. Yes. I'm Sandy Crawford. I'm a past president of the Junior League of Philadelphia, and currently a member of the board of directors and chairman of the public policy committee for the Association of Junior Leagues.

The Association of Junior Leagues is a women's international voluntary organization. In the United States there are 243 leagues with 148,000 members. Our members throughout the United States are feeling the same trends that affect all women in the United States. That is, that more and more women are working, more and more women must combine family, work, child care and volunteer responsibilities. Our membership in the Junior League of Philadelphia; of our new members, 67 percent are employed.

I am especially pleased to be here presenting testimony today in support of the Economic Equity Act since Pennsylvania senior Senator John Heinz is one of the cosponsors of the legislation. With me today also is Sally Orr who is director of our public policy department.

The association is concerned about the increasing incidence of poverty among female headed families and general inequities faced by all women, and believe that the Economic Equity Act will remove some of the inequities and help some of the more vulnerable women and their families. Therefore the association supports the entire Economic Equity Act and our written testimony underscores our support.

Today I would like to focus on the displaced homemaker tax credit. When a woman who has been a full-time homemaker is divorced, separated or deserted by her husband, she is often poorly equipped to compete in the labor market and unable to sustain the preseparation standard of living enjoyed by the family.

I think Patricia Kelly, one of the previous witnesses, is a good example of the problems that are involved when this happens. Women in such circumstances have at least three disadvantages which make them and their children more vulnerable to impoverishment. One is they have been out of the job market for a long time. Without training or incentives for hiring, it is very difficult for them to get a job. Two, if they happen to be lucky enough to find a job, it is usually a low paying job, and third, most of them have the added problem of child care expenses, a burden on that low income. This, of course, could be helped by the dependent care tax credit provision of the Economic Equity Act.

Junior Leagues have a long-standing interest and involvement in the problems of women in transition in general and displaced homemakers in particular.

Last October the Junior League of Pittsburgh cosponsored a national conference on displaced homemakers with the Displaced Homemakers Network. One of the things that they found was there is a tremendous need to call attention to the problems of displaced homemakers, and also a need for supportive legislation such as this provision in the Economic Equity Act. Individual Junior Leagues have also been active in assisting displaced homemakers in their own communities. In our 1981-82 project summaries, 165 volunteers are involved, spending more than half a million dollars. What they have identified in these projects is there is a great need for training, that the skills of these women must be upgraded, and then they need help in finding jobs.

Some of the examples: in Billings, Mont., the Women's Center at the YWCA provides help for women who are widowed, divorced, or separated. They provide counseling and provide help in developing skills and obtaining jobs.

In Waco, Tex., the junior league has established a center on the campus of the local community college. They assist low-income mothers 35 or older who have no marketable skills. They see a tremendous need for more services.

It has been mentioned that the cost is high for this particular provision. We suggest some possible controls that could be used to set criteria for eligibility. These have been identified by the Domestic Homemakers Network and we concur with these. The first is, that the women have a history of full-time homemaking; two, that she has spent 5 or more years out of paid work; and three, that there has been the loss of the primary support for the family. We feel that the short-term costs are out-weighed by the long-term benefits, and that we all benefit when we have families who can be self-supporting.

In conclusion, the association supports the Economic Equity Act. It is our impression that both the administration and the Congress want to redress inequities which make life more difficult for women and their children. We believe that the Economic Equity Act will remove some of these inequities and do much to help some of the more vulnerable women and their families. We urge this committee to lend its support to this important piece of legislation. Thank you.

Senator **PACKWOOD**. Thank you. Ms. Crawford.

[The prepared statement of Ms. Crawford follows:]

STATEMENT OF SANDRA CRAWFORD, ON BEHALF OF THE ASSOCIATION OF JUNIOR LEAGUES, INC.

I am Sandra Crawford of Gladwyne, Pennsylvania, Chairman of the Association of Junior Leagues' Public Policy Committee and a past president of the Junior League of Philadelphia. I am especially pleased to be presenting testimony to the committee today in support of the Economic Equity Act since our senior Senator, Senator H. John Heinz, is a co-sponsor of the legislation. The Association of Junior Leagues is an international women's volunteer organization with 243 member Leagues in the United States, representing approximately 148,000 individual members. Junior Leagues promote the solution of community problems through voluntary citizen involvement, and train their members to be effective voluntary participants in their communities.

The Association of Junior Leagues is one of many national organizations supporting the Economic Equity Act of 1983. At the time this legislation was introduced, 25 national organizations had endorsed the Act. At present, 32 national organizations are supporting this legislation. We are pleased that 31 Senators and 128 members of the House of Representatives are co-sponsoring it.

As a women's organization, we are particularly interested in S. 888. Junior League members are experiencing the same trends reflected in national statistics--that is, many of our members are working; more are having to combine work, child care, and family responsibilities. In addition, those Junior League members who are full-time homemakers also need the economic help of this legislation in planning for the future.

While we do not collect demographic information on all of our members, we do have some data from individual Junior Leagues which would appear to be representative. These data suggest that most Junior League members are married, have children, are college graduates. In addition to their volunteer and family commitments, a substantial number are employed. As of 1982, approximately 41 percent of the women joining the Junior League were employed part-time or full-time. This profile should make clear the reason for our interest in the many provisions of the Economic Equity Act.

It should be noted that the Association has been on record since 1981 with the following position statement on women's economic issues which was reaffirmed at the Association's Annual Conference May 15-18, 1983 in Dallas, Texas:

> The Association of Junior Leagues supports the goal of fair and equal economic opportunities for women and men and will advocate for the attainment of this goal.

Based on this position statement, we have supported a variety of legislative initiatives, including reforms in Social Security and the marriage tax reduction provisions included in the Economic Recovery Tax Act of 1981.

Broad Trends Necessitating the Protections of the Economic Equity Act

Before discussing some of the individual provisions of the Economic Equity Act, we wish to call attention to some of the major trends affecting women in the United States. To mention a few:

- Since 1970 the divorce rate has jumped from 47 to 109 divorces per 1,000 couples, and many divorced women are ill-prepared for the job market because they have not been in the labor force for many years.

- More than 53% of all women are in the labor force.

- Forty percent of the total work force are women, and women are projected to comprise 50% of the work force by 1990.

- Only seven percent of all American families are the "traditional" family made up of a male worker, female homemaker and children; just five years ago 15% of all families could be described as "traditional."

- The number of female-headed households has increased by 97 percent since 1970. The poverty rate among such families with children under 18 is 68 percent for blacks, 67 percent for Hispanics and 43 percent for whites.

The end result of these and other changes is an increasing incidence of poverty among female-headed families, an increasing percentage (47%) of young children (under six) whose mothers are working, and an increasing amount of stress for the mothers and children.

When one adds to these statistics the fact that the median income of women with a variety of different educational levels is substantially lower than that of males, the magnitude of women's problems is even more apparent. For example, the median income of college-educated women is approximately 75% of the median income of high-school-educated men; the median income of high-school-educated women is 60% of the median income of high-school-educated men. These basic income inequities persist despite nearly 20 years of civil rights protections. Some observers deny the existence of inequities, calling attention to the fact that women traditionally leave the labor force for child-rearing and are thereby naturally competitively disadvantaged in the labor market. We do not accept this argument; for the great majority of women, regardless of their time in the work force, the problem of income inequity exists.

Income Inequities and "Feminization of Poverty"

As a result of income inequities and other factors, over the past ten years the United States has experienced a rapidly accelerating incidence of poverty among women and their children. Rising divorce rates and insufficient family support after marital separation are contributing factors. When a woman who has been a full-time homemaker is divorced, separated, or deserted by her husband, she is often poorly equipped to compete in the labor market and unable to sustain the pre-separation standard of living enjoyed by the family. Women in such circumstances have at least three disadvantages which make them and their children more vulnerable to impoverishment:

(1) Having been out of the job market for some time, they may be less competitive in an already tight job market and may have difficulty finding gainful employment without assistance such as training and incentives for hiring such as those provided by the displaced homemakers tax credit included in the Economic Equity Act.

(2) If such women are fortunate enough to find work, most will be confronted with low incomes; women as a group earn much lower salaries than men.

(3) Many women face an added problem of child care expenses, which further erode already insufficient incomes; such income erosion would be lessened by the increase in the dependent care tax credit proposed in the Economic Equity Act.

Because of these unsatisfactory circumstances, the Association of Junior Leagues supports the Economic Equity Act. While we support the entire Act, we are focusing our testimony on only a few of its provisions.

Displaced Homemakers

Junior Leagues have had a longstanding interest and involvement in the problems of women in transition in general, and displaced homemakers in particular. The following Junior Leagues have been involved in community projects which provide both financial assistance and volunteer support to displaced homemakers (both women and men) as reported in the Association's project summaries for 1981-82:

Junior League	Number of Volunteers	Financial Contribution
Billings, MT	5	$ 20,000
Birmingham, ME	3	42,732
Grand Rapids, MI	5	22,000
Jackson, MS	21	4,750
Lehigh Valley, PA	13	1,600
Lincoln, NE	15	56,544
New York, NY	20	4,000
Omaha, NE	18	30,000
Orlando-Winter Park, FL	5	51,000
Palm Beach, FL	16	104,000
Pasadena, CA	13	45,000
Richmond, VA	11	15,000
Topeka, KS	4	59,000
Waco, TX	7	67,000
York, PA	10	12,400
TOTAL	166	$535,026

For example, the Junior League of Waco, Texas, has been involved in its Displaced Homemaker Project since 1979. The project's center, located on the campus of McLennan Community College, has a full-time director and two part-time counselors and makes extensive use of volunteers. The project, initiated in September, 1979, was designed to assist low-income mothers who are 35 years and older with no marketable job skills. It anticipated serving

50 clients in its first year; however, by March 1981, the center had counseled 500 individuals and had assisted 600 people in group workshops. Of the clients served, 100 were men. The center found that 65% of its clients had not completed high school or received the G.E.D.; 85% had not earned college degrees. In gathering data on the need to develop services for displaced homemakers, the Junior League of Waco discovered that 1300-1400 divorces were filed in McLennan County each year--a county with a population of 171,000.

In Billings, Montana, the Junior League has supported Women's Center, a facility at the YWCA which provides help for women who have been widowed, divorced, or separated. Counseling is provided around crisis situations and women are assisted in developing skills and obtaining jobs. Similar programs were assisted by Junior Leagues in Lehigh Valley, Pennsylvania; Omaha, Nebraska; Richmond, Virginia; and Topeka, Kansas.

In Florida, Women's Horizons, a project of the Junior League of the Palm Beaches, in cooperation with the YWCA and Palm Beach Junior College, has been operating for four years, providing individual counseling for women in transition, as well as courses and workshops. A profile of clients indicates that approximately 80% have low incomes. The project handled more than 2200 telephone requests for help in 1982, and provided 35 courses as well as individual counseling.

In 1979, the Junior League of Orlando-Winter Park, Florida began the Job Internship Project in conjunction with the Displaced Homemaker Center at

Valencia Community College. The purpose of the Job Internship Project is to help "hard-core unemployed women" move into the labor market. This program provides workshops in resume writing, interview skills, assertive communication, and stress management. It also works to create a public awareness of the problems of displaced homemakers and to help place women in jobs within the community. Since its inception, the program, has expanded to provide services for hard-to-employ disadvantaged youth and displaced homemakers under age 35. As of January 31, 1983, there were 31 companies participating in the Job Internship Project and 68 of the project's clients had been placed in jobs.

Second National Conference on Displaced Homemakers

Another effort in which the Junior Leagues have been involved in order to call attention to the needs of displaced homemakers was a national conference held October 21-23, 1982 in Pittsburgh, Pennsylvania. The conference was jointly sponsored by the Junior League of Pittsburgh and the Displaced Homemakers Network. Junior Leagues from 20 communities participated. Included in the recommendations which emerged from this conference was the suggestion that more should be done to publicize the problems of displaced homemakers. The conference also called for supportive legislation such as tax credits proposed in the Economic Equity Act (one of the more useful ways of aiding displaced homemakers).

Recommendations Regarding Displaced Homemaker Legislation

Some argue that a tax credit for displaced homemakers is less necessary now that the Job Training Partnership Act (JTPA) will be going into effect in

October, 1983. We disagree. While the JTPA will provide some training opportunities for displaced homemakers, many other disadvantaged unemployed people will be competing for training and employment opportunities; and when we compare the limited resources of the JTPA with the more than 15 million unemployed and underemployed individuals in the United States, it becomes quite apparent that JTPA will not help all of the displaced homemakers who need to work to support their families. Further, the JTPA will help only with training. It would seem that tax credits would be useful as an incentive to hire displaced homemakers who still may need help in securing employment.

The Association supports the proposal in the Economic Equity Act to provide tax credits to facilitate employment of displaced homemakers. We are aware of the concerns about the cost of this proposal, but believe that the costs could be controlled by selective eligibility criteria designed to target the tax credit to those most in need.

We believe the following criteria for determining that a person is a displaced homemaker, as suggested by the Displaced Homemakers Network, Inc. would be useful:

(1) a history of full-time homemaking

(2) five or more years out of the paid labor force

(3) loss of primary support for the family due to separation, divorce, or the death or disablement of the principal wage earner, or termination of AFDC eligibility.

The issue of the cost of this proposed legislation is not merely how much it costs to help displaced homemakers become self-supporting, but how much we will all benefit if we help women and men at this time of crisis to create a positive future for themselves and their families. The cost that we as a nation really cannot afford is that of millions of women and their children living in desperate and hopeless circumstances.

Dependent Care Tax Credits

Another provision of the Act which the Association strongly endorses is Title II, Dependent Care, particularly the proposals to increase the sliding scale of the dependent care credit and to make the credit refundable. As discussed earlier, more mothers are working and many of them are earning low wages. With the cutbacks in the Title XX Social Services Block Grant, there is less money available for publicly-provided day care. The great majority of Child Watch projects conducted by Junior Leagues report a sharp reduction in the eligibility levels for Title XX day care. The inevitable result is that many working mothers have no choice other than to place their children in less than satisfactory child care situations.

Child care is one of the six focus areas of the Association's child advocacy program. In 1981-82, 19 Junior Leagues reported projects involving child care and 20 Junior Leagues reported public affairs activities involving child care. In 1981, the Association, in collaboration with The Johnson Foundation, held a conference, "Child Care: Options for the 80's," at the Wingspread Conference Center in Racine, Wisconsin. Affordability was identified as the number one issue on the Agenda for Action developed by the conference participants. The expansion of the sliding scale tax credit and the establishment of a refundable credit were identified as two key strategies to achieve affordability. The need to achieve affordability in order to provide equality of access to child care also figured prominently in the discussions at the conference, "New Models for Child Daycare," co-sponsored April 28-29, 1983 in Boston by the Association, Wheelock College, the United Way of America, the Child Advocacy Project of the National Conference of Churches, and the National Alliance of Business.

We believe that increasing the sliding scale from the current level of 30 percent to 50 percent for families with incomes of $10,000 and under would be of assistance in resolving the issue of affordability. As currently structured, a family with an income of $10,000 must pay 24 percent of gross income to receive the maximum credit of $720 allowed for one child. This is a difficult--perhaps impossible--burden for a family with that level of income. In addition, making the credit refundable would help those families with incomes too low to require the payment of income tax to receive the full benefit of the tax credit.

In considering the expansion of the sliding scale, it also is important to recognize the assistance that this legislation provides to persons caring for handicapped and aged dependents. Most of these caretakers, of course, are women. In fact, one in ten women between the ages of 45 and 65 is reported to have responsibility for an older relative. As a result of changes in the tax law in 1981, the tax credit now is available to persons whose dependents are placed in out of home care less than 24 hours a day.

This financial assistance is vitally important to those attempting to care for their parents without resorting to full-time out of home care. Encouraging such alternatives to deinstitutionalization is also a priority of the Association. In 1982, the Association's Board of Directors voted to support legislation which would encourage and assist alternatives to institutionalization of the aging. The Board voted that such legislation should promote the following objectives:

a. Encourage the provision and use of services that offer care in the least restrictive environment.

b. Assist families to care for their elderly or disabled relatives at home, e.g., by granting tax credits or deductions.

In addition, the Association's executive director serves on the Board of the National Council on the Aging, Inc., and as chairman of the National Voluntary Organization for Independent Living for the Aging (NVOILA). Assistance in providing for the care of dependents is, of course, vitally important to the older woman or displaced homemaker attempting to re-enter the job market.

In addition, the provision in Title II to allow non-profit organizations providing work-related child care eligibility for tax-exempt status appears to be an important component of the bill--especially for the encouragement of infant day care and after-school programs.

The information and referral provision of Title II, introduced separately by Senator Gary Hart (D-CO), would offer selected communities the opportunity to establish child care information clearinghouses. Since this provision is under the jurisdiction of the Senate Committee on Labor and Human Resources, we will direct our comments in support to that committee.

Child Support Enforcement

Another provision of the Act which would benefit many women and children is Title V, Child Support Enforcement. In the face of the escalating poverty rate among female-headed families, and the poor record of child support on the part of many fathers, how can we not approve such a measure? We have just celebrated Father's Day across the country, but in many families, that supposedly joyous occasion, calling forth images of happy family gatherings is not a cause for celebration. As Representative Marge Roukema (R-NJ) commented recently:

> ...Mr. Speaker, in recent years, a shadow has fallen across this revered holiday for millions of America's children. The shadow has grown blacker, and become a shameful blot, threatening to poison the lifeblood of our society. The number of fathers who refuse to comply with court decrees and to pay for child support has grown to epidemic proportions.

We agree that more needs to be done to assure that absent parents fulfill their child support obligations. As the National Women's Law Center reported, 65% of women with children from an absent father received no financial assistance from the absent father. Ironically, under Title IV-D of the Social Security Act, all states attempt to obtain support for AFDC children from absent parents when, in many cases, these parents have not provided support because of lost jobs and very low income. Thus, we pursue support vigorously from those parents least capable of supporting their children, while practically ignoring non-AFDC cases with fathers fully capable of meeting their support obligations.

The Association would like to see this situation change, and we believe that the enactment of the child support enforcement provisions of the Economic Equity Act would help ensure that parents assume their obligations and children receive the support they need.

Spousal Individual Retirement Accounts

We also wish to call attention to the importance of spousal IRA's such as those contained in Title I which would remove existing inequities in the tax laws. Some argue against this provision because of its costs and because it would seem to favor middle- and upper-income families. The following arguments can be made in support of spousal IRA's:

(1) In consideration of rising divorce rates, spousal IRA's would be helpful in providing future support for women who become displaced homemakers.

(2) It is inequitable to provide IRA's for persons who work outside of the home while ignoring the needs of those who work inside the home raising children and caring for families.

(3) Such a provision would provide a measure of economic security for volunteers who are not also employed for pay.

For these reasons, the Association believes the spousal IRA provision deserves this committee's support.

Head of Household Tax Reform

The Association also supports the provision in Title I of the Act, tax and retirement matters, calling for revisions in the federal tax schedule to allow single heads of households the same zero bracket amount allowed for couples filing joint returns. The increasing number of female-headed households and the increasing likelihood that such families will be poor, as indicated earlier in this testimony, substantiates the need for such a provision.

As the National Federation of Business and Professional Women's Clubs, Inc. has argued:

> ...current tax law reinforces the inferior economic status of women who maintain households... It is time to stop penalizing women trying to provide a decent, adequate standard of living for their families. Without changes in laws such as these, women who maintain households will continue to make up an increasing portion of those living in poverty.

We concur and urge this committee to pass the head of household tax reform.

In conclusion, the Association reiterates its support of the Economic Equity Act. It is our impression that both the Administration and the Congress want to redress inequities which make life more difficult for women and their children. We believe that the Economic Equity Act will remove some of these inequities and do much to help some of the more vulnerable women and their families.

We urge this committee to lend its support to this important piece of legislation. Thank you for the opportunity to appear before you today.

STATEMENT OF DEANNA SOMERS, VICE PRESIDENT FOR LEGISLATIVE AFFAIRS, PARENTS WITHOUT PARTNERS, NOVI, MICH.

Ms. **Somers**. I am Deanna Somers, the vice president for legislative affairs for Parents Without Partners, Inc., a nonprofit organization of 214,000 single parents. We are the largest and oldest single parent organization in the world. The only one admitting single parents of all religions, races, and types, separated, divorced, widowed, and never married. We believe the Economic Equity Act to be one of the most important pieces of legislation to address single parent problems. It is time to address these problems because single parent families are nearly 25 percent of all American families with children in 1982.

We are a large special interest group and economically disadvantaged. To us this bill will not just benefit women, but also children and families. Women are 90 percent of all single parents who have children living with them, but the bill would also assist the 10 percent of single parent families headed by men. The typical single parent is a woman who is white, divorced, and 36 years old with one 10-year-old child. Having only a high school education, she earns $13,000 a year in a clerical job. She is more likely to become unemployed than any other parent and cannot afford to buy a home, but earns too much money to benefit from Government social programs. She does not receive the total child support she was awarded in court. She pays more in taxes and insurance than married couples, and is less likely to have a pension.

Single parents need to work, but female single parents have the highest unemployment rate of any type of parent: 12.9 percent in 1982, rising to 14.8 percent in May 1983. A jobs tax credit targeted at displaced homemakers would help. Most single parents have been out of the work force to care for children and short the experience needed to compete for jobs. Single parents need to work but need to keep their children safe, too.

Expanding the dependent care tax credit would help us resolve the tension between our income needs and the needs of our children. Child care is one of the most expensive items in a single parent's budget, competing for food and rent dollars. The median income for all working single mothers is $3,480 more than the median income for all single mothers, working or not working. But the choice for the single parent is between working and welfare, so she works and can't afford child care. The children stay home alone. In order to avoid welfare dependency or latch-key children, child care is critical to us.

Single parents need their child support. The child support enforcement proposals and the proposals that would open up retirement pay to court orders for child support, alimony, and property settlement would serve to enforce orders, not increase anyone's obligation.

Child support laws are among the most frequently broken laws in the Nation. Please, make wage assignments and property liens for support orders mandatory in every State. This is crucial and basic to child support collection, and we point out that a similar measure will be in the administration's proposed child support legislation.

Opening up the Federal tax refund interception program for child support to non-AFDC parents is vital. For the working, struggling single parent, trying to stay off welfare will be able to use these means as well. Single parents need equal tax treatment. We must provide a home for our children just as the two-parent married family does. Yet the zero bracket amount on our taxes, $2,300, is not the same as that allowed married couples—$3,400. The head of household is usually a single parent. In 1980, 7.7 million heads of households claimed 6.6 million children. Heads of households pay more in taxes than married couple families. In 1982, with an income of $12,373 the head of household with one child, thus two exemptions, pays $243 more than the married couple with two exemptions. The advantage to the married couple arises with income. This penalty for heads of households based not on the number of mouths to feed, but on marital status alone, may not seem like a lot of money to the average two-parent family whose income is more than twice that of the single parent, but it's a lot of money to us.

In 1982 only 18.5 percent of all single mothers earned more than $20,000 a year. The rest who are above the poverty level have little or no discretionary income or government assistance for child care, legal fees, medical care, and so on.

Children are expensive. The extra bedroom for a child that a single parent must provide is expensive. Most single parents can't afford IRA's or Keogh plans.

The latest tax break in regard to marital status is of no use to us. So we can't help but feel it's time for single parents to get a break as well. We see no reason why children and spouses should not be treated equally as exemptions, but we see no reason why a spouse should be the rationale for a larger zero bracket amount.

To conclude, the estimate for the cost of this proposal shows revenue losses from $6 million in 1984 to $1 billion in 1986, returning an average of $148 for 5 million heads of households. We'd like to point out that the two-earner married couple deduction costs from $3.5 billion in 1982 to an estimated $14.3 billion in 1986. Quite frankly, we need the money more.

We have heard a great deal of talk recently in Congress about the needs of children in our country. One way to help them is to pass all the provisions of the Economic Equity Act that support their families.

Thank you for allowing us to be here this afternoon to give our point of view.

[The prepared statement of Ms. Somers follows:]

TESTIMONY BY
DEANNA SOMERS,
VICE PRESIDENT FOR LEGISLATIVE AFFAIRS
PARENTS WITHOUT PARTNERS, INC.

I am Deanna Somers, of Chicago, Illinois. I am the Vice President for Legislative Affairs of Parents Without Partners, Inc., a non-profit organization of 214,000 single parents. We are the largest and oldest organization for single parents in the world, with more than 1100 chapters in all 50 states and Canada, and affiliates in Australia, West Germany, and Great Britain. We are the only national organization that admits single parents of all religions, races, and types--separated, divorced, widowed and never-married--both men and women, both custodial and non-custodial.

I am honored to be here this afternoon to represent our organization and the interests of single parents. We have been in existence since 1957, and in the last 26 years more than a million single parents have passed through our organization with their hopes, fears, and problems. We believe that the Economic Equity Act, S. 888, is one of the most important pieces of legislation in recent years to address these problems. We also believe that the time for action is now, because the number of single parent families has grown from 8.6 percent of American families with children in 1957 to almost 25 percent of American families with children in 1982. We are a very large special interest group, but we are also an economically disadvantaged special interest group. Our families need the fair treatment and the assistance the Economic Equity Act would provide.

We do not regard S. 888 as just a bill to benefit women, but rather as legislation benefitting children and families and especially our single parent families. All matters affecting women affect single parents, because women comprise 90 percent of all single parents who have children living with them. But S. 888 would also assist the 10 percent of single parent families headed by men, particularly in the tax and child care areas. Our members, one-third of whom are men--many non-custodial parents--enthusiastically support this legislation as being in the best interests of the children.

SUPPORTING WORKING FAMILIES

Another reason we support this legislation is that it supports parents who are working and struggling to be self-sufficient. While the median income for all female single parents, working and non-working, is $9,068 a year, we would like to point out that the median income for working female single parents is only $12,552 a year. That's not much more to raise children on, yet these working single parents must provide care for their children. Child care is crucial to single parents, because unlike the two-parent family, single parents do not have the luxury of choosing between two incomes or having one parent remain in the home. But paying for child care is often the straw that breaks the camel's back for the single parent; it is a cost of working that is presently inadequately reimbursed even with a 30 percent credit. By increasing the credit and by making those credits refundable, a larger portion of this burden could be removed from the shoulders of already over-burdened women. The dependent care credit also assists families supporting an elderly dependent--and often it is the single parent who is selected by a family for this task. It is vital that the middle-aged single parent, who is more likely to have an elderly parent in the home, be able to participate in the labor force in order to build up Social Security and other retirement benefits. This credit not only helps single parents to work, it supports families who are trying to take care of several generations. A hidden benefit of this legislation would be to make it easier for families to avoid government supports for children and the aged.

Two provisions in S. 888 would assist unemployment problems. One in five women, according to the U.S. Commission on Civil Rights, is unemployed because she cannot find child care. By making all non-profit child care centers tax-exempt, we would be encouraging the availability of infant care and after-school child care centers, for which an educational component is inappropriate. We estimate that 42 percent of the children under age 13 whose mothers work are the children of single parents. We do not want our children to become synonymous with the so-called latch-key child, yet without affordable and available after-school centers, this may well be the case.

Second, the female single parent has the highest unemployment rate of any type of parent. It was 12.9 percent in 1982. It was 14.8 percent in May of 1983, according to the Bureau of Labor Statistics, a rate we view with alarm. But the unemployment problems of single parents are not a function of a sluggish economy alone; they are also related to the facts that single parents tend to be younger, more likely employed in entry-level or "pink-collar" jobs with high turnover, and tend to have less experience and fewer skills than other family heads. Therefore, we are especially pleased with the provision in S. 888 that would provide a jobs tax credit for employers who hire displaced homemakers. Homemaking is an insecure profession in our society today, and government cannot guarantee that a marriage will last forever. But government can recognize the contribution of the homemaker, who voluntarily gives up the economic security of paid employment for child-rearing, by making it easier for that parent to enter or re-enter the labor force. Again, the hidden benefit is that a potential taxpayer may be employed, thus avoiding welfare.

THE HEAD OF HOUSEHOLD ZERO BRACKET AMOUNT

Finally, increasing the zero bracket amount for taxpayers who file under the Head of Household category of federal income taxes, from $2,300 to the $3,400 now allowed married couples, would assist working single parents--and additionally equalize what we view as an unfair tax burden.

To qualify as a Head of Household for tax purposes, you must be single or separated and maintain a home for a child, grandchild, foster child, stepchild, or a parent or other relative who is a dependent. Most people in this category do claim their children as dependents. In 1980, 7.7 million taxpayers filed as Heads of Households, claiming about 7.1 million dependents, 6.6 million of whom were their children.

The zero bracket amount of $2,300 allowed for Heads of Households is the same as for a single person, but the tax rate falls between that for single taxpayers and that for married couples. The rate and the fact that a single parents will be claiming an exemption for a child provides an advantage over the single, but the head of household ends up paying more in taxes than a married couple family even when the members of the household number the same.

In 1980, the average gross adjusted income for Heads of Households was $11,441. A look at the tax tables for 1980 reveals that a head of household earning this income, with no other adjustments, and claiming one child, thus two exemptions, paid $1,186 in taxes. Yet a married couple filing jointly, with the same income and the same two exemptions, paid $959. Therefore, the head of household, with the same number of mouths to feed, paid an additional $227.

In 1981, the average head of household had an income of $12,373. The head of household with one child, and no other adjustments, paid taxes of $1,377. The married couple filing jointly with the same income and the same two exemptions paid $1,115. Again, the head of household with one child paid $262 more—simply because he or she was not married.

In 1982, given the same average income as in 1981, the head of household with one child would pay $1,233 in taxes. The married couple, with the same two exemptions, would pay $990, a $243 difference. The difference goes up with income, to $542 at $20,000, for example.

This penalty that a head of household pays—based not on the number of mouths to feed but on marital status alone--may not seem like a lot of money to the average two-parent family, whose income is more than twice that of the single parent. But it's a lot to single parents, who are rapidly comprising the poverty population in this country. The Earned Income Credit to which a single parent would be entitled if he or she earns less than $10,000 a year helps somewhat. But again, a look at the tax tables reveals that the difference between the married couple is alleviated by the Earned Income Credit only below the income of approximately $8,700 a year. Above that level, the married couple pays less in taxes. At $9,000 a year, the married couple with two exemptions pays $466. The head of household with two exemptions pays $630, with an Earned Income Credit of $122--leaving a tax of $508 or $42 more. At $9,999 a year, the married couple with two exemptions pays $606. The head of household with two exemptions pays $782, with an Earned Income Credit of $3, or $173 more. Of course, beyond $9,999 of income, the single parent is not eligible for the Earned Income Credit at all.

In 1982, according to the Bureau of Labor Statistics, 25 percent of employed single mothers earned less than $7,000 a year, while 15 percent earned between $7,000 and $9,999 a year. If we add about half the latter group, who could be said to have paid a penalty for being a single parent despite the Earned Income Credit, to the remainder of working single mothers, about 67.5 percent of all working single mothers paid more in taxes than the married couple with the same number of mouths to feed. About 49 percent of all working single mothers fall between $8,700 a year and $20,000 a year, and it is this group that is being squeezed the hardest. They have little to no discretionary income, they receive little to no government assistance for child care, legal fees, medical care, and so on.

We would like to point out that these women, and the men who are custodial single parents, as well, must maintain a home, just as a married couple does. And because the two-person single parent family, whose tax liability we have been comparing to the two-person married couple family, does have a child in that home, it is likely to be a more expensive home. In many localities, single parents are not allowed to rent living quarters--and most lower-income single parents must rent--unless they provide a separate bedroom for their children of each sex. A married couple with no children--two exemptions--can rent a one-bedroom apartment. A single parent with one child--two exemptions--must rent a two-bedroom apartment. And a single parent with a child of each sex usually must find a three-bedroom apartment, not an easy task. We do not need to elaborate on the costs of providing for a child in addition to living quarters--the nutritious food, the immunizations and medical care, the child care, the sneakers of ever-increasing size. In our experience, a child can be more expensive to provide for, at least when it comes to the basics, than a dependent spouse.

Most single parents cannot take advantage of the IRA plans, the Keough plans, and other adjustments to gross income that could drop their tax liabilities. The term "tax shelter" is a foreign one to us. And the latest tax break in regard to marital status, the two-earner couple deduction, is of no use to us.

So we can't help but feel that it is time for the single parent to get a break as well. We are only asking that we be recognized as having to provide a home, just like a married couple. We see no reason why children and spouses should not be treated equally, as exemptions. But we see no reason why a spouse should be the rationale for a larger zero bracket amount.

We understand that to give us non-discriminatory treatment is expensive, costing from an estimated $6 million in 1984 to $1 billion in 1986. But again, the two-earner deduction cost from $3.5 billion in 1982 to $14.3 billion in 1986.

Increasing the zero bracket amount for heads of households would reduce the amount of tax for the head of household with an income of $12,373 and one child, from $1,233 this year to $888 next year, by our calculations. The average reduction in taxes is estimated to be $148 per return, affecting 5 million heads of household.

We have observed a great deal of talk in Congress in recent months about the needs of children, and children in single parent families. One way to assist these children is to give equal tax treatment to their families. Remember--we comprise almost 25 percent of all American families with children. We need your help now.

ENFORCING CHILD SUPPORT

The issue of fairness applies as well to the provisions included in S. 888 which would help single parents to collect the child support they are entitled to. You have already heard the statistics about the deplorable rate of child support collections. What you may not have heard is that the failure to enforce child support laws in this country is a leading factor in the alienation, depression, and loss of belief in justice that single parents experience.

Child support enforcement officials believe that child support laws are among the most frequently broken laws in this country. While some states do a good job of enforcing their court orders, other states do not, and it is the lack of uniformity in procedures among the states that contributes most to this problem.

We ask that the federal government recognize its obligation to the children of this country by stepping into the child support arena. We enthusiastically support several provisions of S. 888 as being some of the most important steps that could be taken.

Specifically, it is time to require all states to provide for mandatory withholding and payment of past due support and to provide procedures for imposing liens against property for past due support. Child support should be viewed as a debt, and more important than other debts, and the laws to collect this debt must be made available to single parents. If we could pass just one portion of S. 888 dealing with child support enforcement, these two provisions would be our first choice. Programs, bureaucracies, systems, personnel--all are meaningless without the basic laws which will allow collections.

Our next choice of provisions in S. 888 would be to allow non-AFDC parents to collect their child support through the same tax interception provisions that are available to the federal government for the collection of child support owed for AFDC-supported children. We do not accept the present situation in which government can reimburse itself for welfare expenditures by intercepting tax refunds for owed child support, yet the parents who are struggling to stay off welfare cannot use the same procedures. It has been argued that while government can collect debts owed to government, it should not intervene in private debts. We say that government has an obligation to enforce its own laws, and that it has a special obligation to enforce laws that support children. A recent Supreme Court opinion, regarding paternity laws in the state of Tennessee, where children born outside marriage who were on welfare were entitled to sue for paternity and child support until they were 18, but children born outside marriage who were not on welfare had only two years to do so, stated:

> "The State unquestionably has a legitimate interest in protecting public revenue....however, the State also has an interest in seeing that 'justice is done' by 'ensuring that genuine claims for child support are satisfied."
>
> "...these interests are not satisfied merely because the mother is providing the child with sufficient support to keep the child off the welfare rolls."

An important mechanism for using the federal tax refund interception program would be the establishment of Child Support Clearinghouses where all child support decrees would be entered, and records of payments kept. This would ensure that accurate third-party records would show when a parent was behind on child support payments, and would facilitate swift action. Without third-party records, it is necessary in most cases to hold a formal court hearing to establish non-payment. Those hearings cost the single parent time and money in legal fees, and they clog up the court system. The clearinghouse concept streamlines the system.

And additionally, we find that all the other provisions of the Economic Equity Act related to child support enforcement are necessary, sensible and needed.

Finally, there are several provisions related to retirement benefits, profit-sharing and stock bonus plans, civil service retirement, and federal pay that would open up these sources of income to child support, alimony, and property settlements. We are, of course, in favor of each of these provisions because they are in the best interests of single parent families. We point out that in each case, the amount that could be levied for the payment of these debts would be set by the courts that have the power to determine these awards now. All we are asking is an enforcement mechanism so that children and divorced spouses can get the supports they are entitled to.

The exception is the provision providing a pro-rata share of the retirement pensions of civil service workers for divorced spouses who were married for at least ten years. This is not a new idea; similar language is already law for the ex-spouses of CIA and Foreign Service employees. But the Civil Service employs so many more workers that we think the benefits for single parents would be considerable.

To conclude, we believe the Economic Equity Act serves the interests of single parents in several important ways. Our top priorities are child support and alimony enforcement, child care, supports for working single parents, and equal tax treatment. We have the responsibility for raising more than 20 percent of the nation's children. Please help us in our task by implementing this legislation.

Senator PACKWOOD. Let me ask you the same question I asked some of the previous witnesses. Has your organization or your individuals in it had experience with the States being more willing if you're on AFDC to enforce court orders than they are if you're not?

Ms. SOMERS. Yes; absolutely. Let me give you an example. I went to court about a year ago with a friend of mine who is seeking her back child support. She was earning an income that was supplemented by taking in ironing and doing a lot of babysitting, and the judge told her that if she was able to afford to hire a lawyer, how come she needed the money for child support. She promptly quit her job, went on welfare, and she has received the child support payments now, with an attorney that has been paid for by the State and with a department that is very eager for the welfare payments to be terminated in lieu of, or in place of the child support.

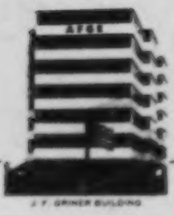
Senator PACKWOOD. Again, I understand why the States do that, but it's a backward policy. It does not serve the end we're trying to reach.

Ms. SOMERS. We agree.

Senator PACKWOOD. I have no other questions. Thank you so much for being patient with what we went through this afternoon.

[Whereupon, at 3:15 p.m., the hearing was concluded.]

[By direction of the chairman the following communications were made a part of the hearing record:]


J. F. GRINER BUILDING

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STATEMENT OF
BARBARA B. HUTCHINSON
DIRECTOR, WOMEN'S DEPARTMENT
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
(AFL-CIO)
before the
Senate Committee On Finance
Washington, D.C.
June 20, 1983

Mr. Chairman and Members of the Committee:

I am Barbara B. Hutchinson, Director of the Women's Department for the American Federation of Government Employees (AFL-CIO), which represents over 700,000 employees in the Federal and District of Columbia governments nationwide. I am a Vice-President of the AFL-CIO and I am pleased to appear before you today in both capacities, and testify on economic equity for women in America.

These hearings are a historic event for our country. Women in America, although bearing the burdens of providing guidance for our family structure,community services. economic contributions in the home and workplace, and the societal education of our children have not shared equally in the increased economic returns that our society has produced.

In 1960, women represented 23% of the labor force. Today women represent 45% of the labor force and by 1990 it is projected that they will represent 57% of the labor force. Forty-nine per cent of the women in the labor force today are married and over 70% of these women are employed at full time jobs. Yet, women in 1981 earned a median income of $12,457 versus $20,692 for males.

Economic injustice in America for women is not limited to purely income. Women in America have faced barriers to an equal share in this economy on all levels. No value is placed on the services that a woman contributes to the society when she remains at home to care for the family. Although this is considered a principal foundation of our culture, no economic value has been placed on this contribution. Further, as stated above, a woman who chooses to work outside the home suffers by receiving less wages for the same work done by males. My union conducted a study of females in the federal workforce which we presented as testimony before the House of Representatives last year. Our study showed that the average grade for women in federal government is 6.26 while men were at an average grade of 8.33. In fact in all job categories in the federal government, the earnings of male employees outdistanced the earnings of females.

The bills before this Committee today have many provisions so that I would like to highlight those that we believe are of major importance to women.

In the area of insurance, women have been required to pay higher premiums for less benefits based on their sex. Until the passage of the 1964 Civil Rights Act and the 1978 Pregnancy Discrimination Act, women were denied coverage for certain benefits and paid higher premiums based on their sex. Even the decisions of the United States Supreme Court in Los Angeles v. Manhart 435 U.S. 702 (1978) and in Nashville Gas Company v. Satty 434 U.S. 136 (1977) have not eliminated the gender based discrimination in the insurance industry. We support the passage of the provisions in this bill which will bring uniformity to the regulation of the insurance industry and which will eliminate the sex discrimination which exists in the industry today.

Day Care is another area which we believe is of critical importance in this bill. As stated at the outset, women today constitute 45% of the labor force. The number of working women with children has risen dramatically over the past decade. Attachment A to our testimony shows the number of married women in the labor force today. These figures show the critical need for our country to address the issue of day care. The children of our society are our future, yet child care is left to the individual's economic ability to pay. While the provisions of this bill will go far toward helping working parents in this country to secure safe, adequate day care, it is not enough. We believe that the time has come to not only amend the tax laws to provide economic support to working parents but also to pass legislation which will provide a national uniform day care program which meets the needs of our changing society.

Finally, we would like to address the amendments proposed in the area of retirement. These provisions caused us grave concern. While we recognize the intent of the provisions, we also believe that making retirement plans subject to the domestic property laws of the 50 different states is not the correct solution. It is certainly of concern to us that women who have remained married and in the home do not suffer economically as the result of a divorce in later years. However, the assignment of retirement annuities through divorce actions is not an appropriate mechanism to address this issue. The provisions on retirement presently before the committee would only be received by a divorced spouse under a court order in a private retirement plan and only if the court did not issue a different order under a government retirement plan. This legislation could create confusion and chaos in the administration of retirement plans. Further, a state court could choose not to award the annuity. Thus the result can be different in each state and in each divorce action. While we believe that the intent is meritorious, we do not believe these provisions achieve the objective.

For many years, representatives in the legal profession have spoken out in support of a uniform family law to address the inequities which result from property settlements where one partner in a marriage has spent their time in the home. The problem in this area is that each state family law differs in what property is considered property of the marriage. However, no state law provides for any economic value being placed on the homemaker's services during the marriage. This is a serious problem and in recent years a few courts have attempted to struggle with placing a value on the economic loss suffered by an individual who remains out of the workplace. We would urge you to look at legislation which would provide for a uniform family law in this country. Although, it has been discussed and debated in the past, no serious study has been conducted on the subject. The retirement provisions before you today are an attempt to grapple with this problem but these provisions will only aggravate it.

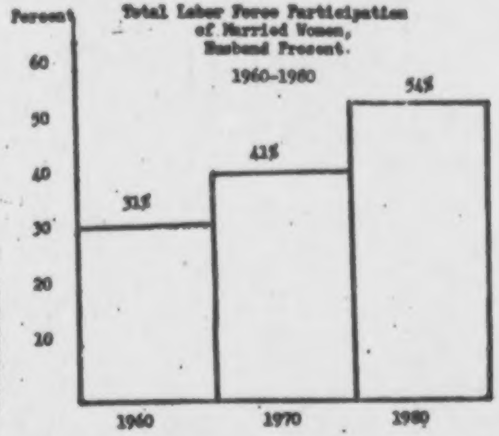
In conclusion, we believe that economic equity for women in this society must be achieved. We believe that a society where women are treated as second class citizens cannot be a just society. The bills before you today are a step in the proper direction. However, the proper approach to the division of property is a serious issue which we feel will not be addressed by making retirement plans subject to the varying domestic laws of the states.

I thank you for the opportunity to appear before you today.

Attachment

- Not only has the labor force participation rate for married women risen dramatically over the last 20 years, but a trend that may tell even more about our changing society is the increased presence in the workforce of married women with children -- particularly for those with young children (under 6 years old) whose participation rate has jumped from 19% in 1960 to 45% in 1980.

Attachment A


Total Labor Force Participation of Married Women, Husband Present.

1960-1980

Civilian Labor Force Participation of Married Women, Husband Present, by Age of Own Children*

1960-1980

	1960	1970	1980
Total	31%	41%	54%
No own children under 18	35	42	46
Own children under 6	19	30	45
Own children 6-17	39	49	62

* Own children refer to children of husband or wife. Includes sons, daughters, step children and adopted. Excludes other related children such as grandchildren, nieces, nephews, cousins and unrelated children.

Source: Employment and Training Report of the President, 1980
Table B-4

Statement of the

American Federation of State, County and Municipal Employees, AFL-CIO

This statement is submitted in behalf of Gerald W. McEntee, President, American Federation of State, County and Municipal Employees (AFSCME).

AFSCME's interest in each of the provisions in S. 888, the Economic Equity Act, is based upon a number of compelling reasons. As the largest public employees union representing more than one million employees at the state, county and local level as well as in nonprofit and federal agencies, AFSCME is in the vanguard of continuing efforts to remove the gender gap which persists in all too many programs, benefits, and laws and which adversely impacts upon the economic well being of all too many Americans who were happened to have been born female.

More than 400,000 AFSCME members are women. Many of them are single heads of households with responsibility for the care of their children or other dependent relatives. All of them will gain a greater degree of fairness and equity upon the enactment of S. 888 into law.

AFSCME applauds Senator Durenberger and the co-sponsors of this legislation. We desire to particularly call the Committee's attention to Title II, Section 201 and Section 203, under the Dependent Care Program.

In 1981, Congress replaced the previous flat rate credit for dependent care with a sliding scale that placed the maximum benefit of the credit on low-income households. The scale now allows a 30 percent credit for work-related dependent care costs up to $2,400 for taxpayers with incomes of $10,000 or less, or a maximum credit of $720. The credit is reduced by one percentage point for each $2,000 of income between $10,000 and $28,000 to a minimum of 20 per cent. At the present time, a family earning $10,000 would have to pay $2,400 a year for work-related dependent care costs, or almost one-fourth of their income, to receive the maximum credit of $720.

Section 201 would expand the sliding scale to 50 percent for families with incomes of $10,000 or less reduced by 1 percentage point for each full $1,000 of income in excess of $10,000 down to a minimum of 20 per cent for families earning over $40,000.

Currently, low income families that are required to meet the heavy burden of dependent care costs in order to keep working face two serious problems with regard to the dependent care tax credit to which they are entitled. On the one hand, many of them are either not aware of this tax benefit or, if they are, do not bother to go through the seemingly awesome process of completing the 1040 long form as they are now required to do in order to claim the credit. On the other hand, for many who do file, the tax credit is a sham if they do not have a tax liability or if the amount of their tax credit is greater than their liability.

Section 203 addresses this patent inequity by making the tax credit refundable.

Moreover, Internal Revenue Service is responding in a positive way to recommendations from AFSCME and a large number of other organizations to remove the current barriers which discourage low income families from applying for the credit. It it our understanding that beginning with the 1983 tax year, it will be possible to claim this credit on the 1040A short form that is virtually universally used by low income families.

We need to take a look, Mr. Chairman, at the strong case that supports the enactment of these crucial provisions.

First and foremost there is the pervasive argument of economic justice and fairness.

AFSCME does not dispute the fact that the liberalization of the work-related dependent care tax credit and the refundability authorization will increase tax expenditures during this period of alarming budget deficits. The estimated cost is about $600-$800 million.

But there is another side to the coin.

The principal beneficiaries of these provisions will be working mothers who are now in perilous economic circumstances because of the high cost they must bear for the care of their pre-school and school age children or for the care of their elderly parents and other relatives. They are all taxpayers and they repel at the notion that economic necessity may some day compel them to throw in the towel and to deal with their dependent care problem by quitting their jobs. The specter of AFDC and the unacceptable state of dependency it involves looms too close for many of them. And, for many of them, the haunting realization that their financial condition forces less the adequate care for their dependents while they are working further erodes their resolve to keep going.

Consider these facts:

- Over half of all children have mothers in the labor force, including almost 46 percent of preschool children.

  56.5 per cent of women with children between the ages of 3 and 5 and 45.6 per cent of women with children under age 3 are working.

- One in five children is growing up in a one parent family.

  One third of these families, most often headed by women, live below the poverty level.

- Eighty per cent of all persons over 65 have at least one surviving child who is being called upon to take more responsibility for their parents.

One in ten middle-aged women between 45 and 65 has responsibility for older relatives.

One out of eight retired women in 1975 said that they retired because they were needed at home to care for dependents.

- There are more than eight million severely disabled adults who are living in families with at least one other adult.

- As many as 6 million children 13 years old and under may go without care for significant parts of each day while their parents work.

- The average monthly cost for comprehensive child day care is $250 per child.

- The average monthly cost for skilled nursing home care is $850; for intermediate care it is $700.

- Since 1981, federal funding for Title XX - the major program which supports child care services and services to enable disabled persons to remain in their homes - has been reduced by more than 20 per cent below the previously authorized level. As a consequence, thousands of working mothers have been denied subsidized child day care benefits and services to the homebound have been sharply reduced or eliminated.

Simply stated, the other side of the coin is that, in both the short and long term, the provisions in Sections 201 and 203 are clearly cost effective measures.

By improving the economic circumstances of working women who are caring for dependent and disabled relatives, these provisions would lessen substantially the drain on the Medicaid, Medicare, and public health programs for the exhorbitant costs of institutionalization of this high risk group.

Similarly, the ability of low-income working women whose children require child care services to continue working would become considerably less tenuous as would their prospects of becoming applicants for costly public assistance support. In addition, the additional tax break they would derive would make it possible for many of them to improve the quality of care their dependent relatives are receiving currently, thereby stabilizing their family condition.

AFSCME urges the Committee to approve these vital provisions that we have addressed. On the basis of sound, economic policy and on the basic of fairness, they need to be enacted into law.

STATEMENT OF THE AMERICAN SOCIETY OF PENSION ACTUARIES

The American Society of Pension Actuaries is a national professional society whose 2000 members provide actuarial, consulting and administrative services to approximately 30% of the qualified retirement plans in the United States. Most of our members provide services primarily to small plans. Our views with respect to some of the major provisions of S.19, The Retirement Equity Act of 1983, and S.888, The Economic Equity Act of 1983, are discussed below.

We oppose the provisions in S.19 and S.888 which lower the age at which an employee's services must be taken into account for participation purposes from 25 to 21. Such a provision will significantly increase administrative costs by requiring additional plan recordkeeping (and actuarial calculations in defined benefit plans) for employees in a high turnover group, as well as requiring plan amendments. Since it would create an additional disincentive to maintain or start a qualified plan by increasing administrative costs, while generating a minimum amount of additional benefits, we believe it would be counterproductive to its intended objective to increase participation in employer sponsored plans.

With respect to our comment about generating a minimum amount of additional benefits, we quote, in part, from material prepared on S.19 and S.888 by the Employee Benefit Research Institute:

> "In May 1979 there were 11.1 million workers between twenty-one and twenty-four; 5.2 million worked for an employer who did not have a pension plan. Another 2.6 million, or 23.4 percent, were already participating in a plan but had not yet vested. Slightly more than 1.1 million, or 10.3 percent, had already vested in their current employer's plan. Only about 1.2 million workers twenty-one to twenty-four years old were working for an employer with a pension in which they were not yet participating and would become participants if the age

> of participation were reduced to twenty-one. Reducing the ERISA participation standard to age twenty-one in 1979 would have increased the pension participation rate among women by only 1.4 percent and among men by .8 percent. Those who would vest under an age twenty-one standard would likely vest under current law. And, due to the aging of the baby boom, the number who would benefit from age twenty-one participation is getting even smaller. By comparison, newly qualified pension plans have given participation to more than twice as many people, both men and women, in each of the last four years. ..."

We oppose the provisions in S.19 which would change the break-in-service rules for a worker on maternity or paternity leave, and the provisions in S.888 which provide for service credits for maternity or paternity leave. The break-in-service rules under Section 411 of the Internal Revenue Code are adequate to deal with maternity and paternity leave and these new special rules would create additional administrative and funding costs, as well as the costs involved in making necessary plan amendments. Furthermore, they would create a precedent for additional exceptions in other leave of absence situations which may be deemed particularly worthy, such as leaves for extended charitable work or further education.

We have some reservations about the provisions in S.19 and S.888 requiring the consent of the non-employee spouse to the election out of the joint and survivor annuity option by the employee spouse. Our reservations center around our reluctance to have the government interfere with the relationships between spouses. Because of our philosophical concern, we suggest that consideration be given to substituting a notification requirement for the consent requirement so that an individual will know if he or she cannot rely on the availability of a survivor annuity from the spouse.

We support the provisions in S.19 and S.888 which permit accrued pension benefits to be subject to property divisions pursuant to state domestic relations proceedings but prohibit alteration of the effective date, time, form, duration or amount of payments under the plan. We believe this is a needed clarification of the law which will remove uncertainty as to the division of accrued pension benefits in divorce or separation situations.

We strongly support the provisions of S.19 which would increase the involuntary cashout ceiling from $1,750 to $3,500. It is costly administratively to retain relatively small amounts of deferred vested benefits in plans for long periods of time and this increase will provide needed flexibility.

We strongly oppose the provisions in S.888 (not contained in S.19) which ban the use of sex based mortality tables in determining benefits under insurance and retirement contracts. Extensive testimony has been presented in the course of hearings on S.372 and H.R.100, which have provisions analagous to those in S.888, to show the tremendous cost to the retirement plans that would result from banning the use of sex based mortality tables in determining benefits. We suggest the Finance Committee closely examine the record developed on this matter at these hearings.

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May 20, 1983

The Honorable Robert J. Dole
United States Senate
Washington, DC 20510

Dear Senator Dole:

I am writing to express my opposition to certain provisions [illegible] S 19 and S 888, due to be the subject of hearings before the Senate Finance Committee on June 20-21. As a woman, I applaud any efforts to equalize retirement benefits for members of my sex. However, as an employee benefits specialist who has first-hand knowledge of the impact upon employers of ERISA, ERTA, MPPAA, and TEFRA, I must express my concern about the threat that this steady stream of legislation, including S 19 and S 888, presents to the survival of the private retirement system.

As you know, retirement security in the United States has traditionally been predicated upon the concept of the "three-legged stool": retirement benefits are to be provided through private retirement plans, individual savings, and, to a lesser extent, Social Security. At a time when the future of Social Security is certainly in question and individual savings are low, it makes absolutely no sense to continually impose unrealistic and, in many cases, unnecessary burdens upon those employers who maintain retirement plans for the benefit of their employees. I refer specifically to the provisions in S 19 and S 888 that would lower the allowable minimum age requirement for plan participation from 25 to 21. Experience has proven that turnover is highest among all employees (men and women) under age 25--this was the rationale for setting the minimum age at 25 in the first place. Mandating that employees in the 21-24 age bracket be covered under their employer's retirement plans will not only cause a direct increase in the expense of such plans, but will also add to the already heavy administrative burden on these employers. The irony is that most women under age 25 are probably less concerned with their retirement--which is some 40 years distant--than with the more immediate object of receiving equal pay for an equal day's work. An even bitterer irony is that reforms such as those in S 19 and S 888 and TEFRA's pension-related provisions, which are literally undertaken in the name of "equity," will undoubtedly cause thousands of employers to terminate their plans entirely.

I am sure I am not alone when I say that I am annoyed and alarmed by the Federal Government's increasingly pervasive intrusion into the private sector. It is time for our elected representatives to realize that employers have just about had their fill of federal regulation of their retirement plans. If the Congress persists in imposing excessive and unreasonable requirements on these plans, it may very well succeed in kicking out from under the American people the sturdiest leg of that already wobbly three-legged stool.

I urge you to seek the elimination of the minimum age requirement from S 19 and S 888.

Very truly yours,

Katherine K. Neumann

Katherine K. Neumann
Legal Assistant

KKN/baw

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May 13, 1983

Senator Robert Dole
United States Capital Building
Washington, D.C. 20515

Re: Senate Bill 19

Dear Senator Dole:

As an active practitioner in the Pension and ERISA community, I respectively submit the following comments with respect to Senate Bill 19, before the First Session of the 98th Congress, which I understand you sponsored.

Section II. Lowering of Age Limitation For Minimum Participation Standards

This section of the Retirement Equity Act of 1983 would operate to further the apparent philosophy behind the Tax Equity and Fiscal Responsibility Act of 1982 by providing for "mandatory" participation of employees who have concluded one year of service and have attained the age of 21 (as opposed to age 25). Since this age stratum typically would not consist of "key employees", it appears that the company's contribution will be distributed to a greater extent to non-key employees. This would especially be true in a profit sharing plan setting. As a practitioner, I do not see this provision as causing undue hardship in terms of administration of pension or profit sharing plans. However, from a business standpoint, in a defined benefit or money purchase plan setting, requiring further participation among non-key employees would make the plan more costly (especially where there are a greater number of younger employees, for example, in the retail sector) and may make it costly enough so that the principals would decide not to adopt the plan in the first instance.

Section III. Certain Maternity or Paternity Leaves not Treated as a Break in Service

While I am personally in favor of the policy considerations behind this section of the Act, I am concerned that if such leave of absence is not considered a break in service, certain plans may not permit the early distribution of vested, earned benefits when in fact the participant has no desire to return to work after the birth of his or her child and needs his or her severance benefits immediately. Consequently, I respectfully submit that this section provide that such absence shall be treated as hours of service solely for purposes of determining whether a break in service has occurred, at the election of the affected plan participant.

Since this section of the Act only deals with when a break in service occurs and would not result in additional vesting or benefit service, it seems to me that the affected participant should have a choice, especially where the timing of the severance benefit payment may be deferred due to this provison.

Section IV. Spousal Consent Required For Election Not to Take Joint and Survivor Annuity; Divorces After Annuity Starting Date

Amending 29 U.S.C.1055(e)(2) so to require spousal consent to an election not to take a joint and survivor annuity as the normal form of benefit poses many problems. First, it could become an administrative nightmare as it is difficult enough to obtain informed consent from participants. Second, where the participant would prefer a straight-life annuity, it could foster marital discord. Third, it seems to me that requiring spousal consent in a situation where the participant desires to elect out of the joint and survivor annuity form and the participant's spouse will not consent to such an election, amounts to a taking of property without due process of law in violation of the fifth and Fourteenth Amendments of the Constitution of the United States of America. It is my belief that, except possibly in a divorce context, an individual's earned pension benefits are his. This is especially true as it relates to previously accrued benefits.

If this section of the Act was adopted, it is my belief that accrued pension benefits would be carved out from other family assets and treated as community property even in non-community property states. It does not seem fair to treat pension benefits different from other earned, non-deferred income.

I am totally in favor of that section of the bill which amends 29 U.S.C.1055(d) so to provide that a plan shall not satisfy the requirements of section 205 of ERISA unless the plan treats an individual who is the spouse of a participant on the annuity starting date and who survives the participant as if such individual were the spouse of the participant on the date of death of the participant whether or not divorced after the annuity starting date. While I can anticipate much discontent from the insurance industry, this change seems most appropriate.

Section V. Special Rules For Assignment in Divorce, Etc. Proceedings

This section of the Act apparently codifies the "trend" in case law which treats future pension entitlements as a part of the marital estate. While in theory, such benefits are not payable until the occurrence of some future event (for example, death, retirement or disability) many companies provide pension and retirement plans in lieu of additional compensation and consequently the policy of this section of the bill seems consistent with the trend to broaden the elements of what comprises the marital estate. (In this instance, treating pension benefits as earned(albeit deferred) income or as an investment.) As a practitioner, I find the proposed amendment to Section 401(a) (13)(C)(i) to be extremely troublesome in that it states "the total amount of benefits which may be assigned or alienated by reason of Subparagraph (B) shall not exceed the amount of the accrued benefit of the participant or beneficiary." [My emphasis supplied] When is the accrued benefit determined? At the time the divorce decree is entered? Sometime subsequent to that? What is an accrued benefit? How is it determined in a defined contribution plan setting? Should not the amount of the accrued benefit be limited to what has accrued prior to the entry of a divorce decree if, in fact, the policy is to broaden the concept of "marital estate"? If the concept of accrued benefit is defined to be benefits accrued, assuming the participant continues in the employ until reaching retirement age, what about protecting the rights of any "new" spouse.

I respectfully recommend that this language be redrafted so to further define the term accrued benefit. In all other respects, my personal observation is that this change in ERISA is basically fair and reasonable.

The provisions dealing with the tax treatment of divorce distributions in treating them as lump-sum distributions eligible for rollover treatment seems fair and should not pose any undue burden on the profession.

Section VI. Increase in Allowable Mandatory Distribution From $1,750 to $3,500

I am certain that the pension industry would welcome this change as it is more in tune with the financial climate of the 1980s and would alleviate a great deal of paper work.

I hope that these comments are helpful to you. While my suggestions might seem overly critical, my concern is in the practical affects of these changes and on administering pension and profit sharing plans. I thank you for your efforts in attempting to bring the retirement laws up to date in terms of developing case law and the financial climate of the 1980s.

Respectfully submitted.

Marc R. Garber

MRG/cam

cc: Senator John Heinz

Camp Fire, Inc.
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GROWING WITH YOUNG PEOPLE FOR 72 YEARS

June 1, 1983

The Honorable Robert Dole
Chairman
Committee on Finance
207 Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Senator Dole:

Camp Fire, the 74-year-old national youth-serving organization, urges you to include Sections 201 and 203 of S. 888, the "Economic Equity Act," in the Fiscal Year 1984 revenue package.

Sections 201 and 203 of S. 888 would amend the provisions of the Dependent Care Tax Credit. The Dependent Care Tax Credit offers assistance to the many family members who work outside of the home and who must make arrangements for the care of their children or elderly or handicapped dependents.

Section 201 would allow for a 50 percent tax credit for work-related dependent care expenditures, rather than the current 30 percent limit. Section 203 would make the Dependent Care Tax Credit refundable so that those families whose incomes are too low to have tax liability could have access to the credit.

These provisions would help many families to meet the needs of their young, elderly, or handicapped dependents. They would enable many of those who could not previously afford dependent care to work outside of the home. They would also reduce the use of more costly institutional care.

Thank you for your support. Please let us know if you would like more information, or if Camp Fire can be of help to you in any way.

Sincerely,

AE Sherman
Arnold E. Sherman
National Executive Director

Walli Klores
(Mrs.) Walli H. Klores
Washington Representative

S.888, Title I, Section 109, "Reforms Relating to Spousal Benefits under
Civil Service Retirement" July 5, 1983

Members of Civil Service Spouses for Equity wish to thank the Finance Committee for inviting their testimony on S. 888. We appreciate the opportunity to inform the Committee on the circumstances faced by spouses of Federal civil service employees and to express our views on Title I, Section 109, "Reforms Relating to Spousal Benefits under Civil Service Retirement," of S. 888 which the Committee is considering. I will begin with some facts about our organization and membership and then discuss problems in the present law and the need for reform of the Civil Service Retirement System. In conclusion, I will offer an analysis of the economic impact of the proposed legislation and recommend additional actions that are needed.

Civil Service Spouses for Equity

Civil Service Spouses for Equity (CSSE) was organized in late 1982 to improve retirement income, health insurance coverage, and protection as the beneficiary under the Federal Employees Group Life Insurance (FEGLI) program for spouses of Federal civil service employees. Our membership has grown to 205 individuals nationwide. The median age of our members is sixty (60) and our youngest member is forty (40).[1] Over 98 percent of our members are women. They are part of the aging population and they now experience or anticipate an impoverished retirement.

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[1] CSSE is conducting a survey of its members. These data and other on CSSE members used in this testimony are based on preliminary returns and analysis.

Civil Service Retirement System and Spousal Benefits

Women who are married or have been married to Federal civil service employees build no protection for retirement income as homemakers. They are not entitled to any share of the Civil Service Retirement System (CSRS) annuity earned by the employed spouse unless their spouse dies while still married and still employed. If the employee retirees, he may elect survivor benefits and he elects the amount of these benefits. There is no provision for a divorced spouse unless a share of the annuity is awarded by a court, but this ceases upon the retiree's death. Yet the CSRS annuity is usually the largest asset owned by a married couple. The average male civil service employee who retired in 1982 will receive $284,575 as an annuity from the CSRS.[2] The fact that widows, divorced widows, and divorced spouses are not entitled to the share of this annuity for which contributions were made during their marriage disproportionately affects their lives.

The Divorced Widow

> Mrs. Alma A. of Virginia, a 66 year old divorced widow, receives Supplemental Security Income, food stamps, and Medicaid after 36 years of marriage. At the time of the divorce, the retiree agreed and the court ordered that she would receive survivor's benefits. Federal law, however, does not permit this. After 36 years of marriage in which Mrs. A. never worked outside the home and was a dependent of her husband, she knows the humiliation of receiving public assistance rather than a pension earned by her work in the home.

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[2] This figure is derived from the average monthly annuity of a male retiring in 1982 multiplied by his life expectancy. The average male monthly annuity in 1982 was $1,303 and the average age was 59.8. The life expectancy for a male at age 59 is 18.2 years. Life expectancy is 1979 data, the latest available. Data was provided by the U.S. Office of Personnel Management and the U. S. Department of Health and Human Services.

> Mrs. Ema B. of Oklahoma married for 36 years from 1937 to 1973, sees the annuity earned during her marriage to a Federal employee paid to his second wife to whom he was married for only three years before his death. Federal law stipulates that if a marriage lasts for one year,[3] the widow will receive the survivor's annuity. The result is that spouses of relatively brief marriages receive the entire survivor's annuity while the former wife of a lengthy marriage receives nothing.

In cases where the former spouse dies prematurely, the situation is equally bleak for the divorced widow. Often she must continue to maintain a home for herself and late adolescent or young adult children though the income they were awarded by the court stops.

> A retiree committed suicide ending the child support and alimony payments to his former spouse of 22 years. Mrs. Frances S., the divorced widow was forced to sell her Long Island home and relocate to another part of the country. In a few years at age 62, all she will have is a small social security benefit she earned before her marriage.
>
> Mrs. F. of Maryland in her early fifties, maintaining a home and educating three young adult children born of the marriage, must manage on a reduced income after the former spouse committed suicide and alimony ceased. All survivor's benefits are paid to the employee's third wife of a childless marriage.
>
> An employee was killed three months after a divorce. His contributions to the annuity were paid to his grown sons. The divorced widow, Mrs. Mary M., has undergone heart surgery and is uncertain about her ability to continue working. She is in her late fifties and was married for more than 30 years.
>
> In another case, the survivor's annuity is paid to the childless second wife who is one year older than the deceased retiree's oldest son of his first marriage. The divorced widow, Mrs. Jean R. of Virginia, in her middle fifties receives nothing while she continues to maintain a home and educate the two sons of her marriage to the Federal employee.

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[3] If a child has been born of the marriage, there is no length of marriage requirement. However, unlike Social Security, a divorced widow caring for minor children of the marriage does not receive the employee's annuity.

The Divorced Spouse

Women who are receiving alimony or a share of the annuity under a divorce decree live with the constant fear of what will happen to them when their former husbands die. They express this fear in letters written to us from throughout the country.

> Mrs. Margaret C. of Maryland, in her middle fifties, diagnosed for cancer, knows that her few assets will dwindle quickly when her income ends at the retiree's death.
>
> Mrs. D. of California, a 65 year old woman, is being divorced by her 75 year old husband after 30 years of marriage. She faces an old age without adequate income. If her husband dies one day after the divorce, she will receive nothing from CSRS. She has found work at the minimum wage in a retail store and will receive only the minimum social security benefit she earns in her own name.

The Divorced Spouse and the Labor Market

Fifty-five (55) percent of the respondents to the CSSE questionnaire are employed. They range in age from 40 to 69. Can they expect to earn an adequate retirement from their own employment? Older women who divorce and reenter the labor force face formidable obstacles in achieving satisfactory current earnings and retirement benefits. Their breaks in services of ten, twenty, or thirty years affect the salaries they can earn. They are the lower-paid workers because of their lack of recent skills and experience and their opportunities for promotion are small because of age discrimination. Times of high unemployment such as the United States now is experiencing aggravate these conditions. Their small earnings are stretched to provide for their children's needs. Any assets they received as part of a divorce settlement are used to supplement their wages and are exhausted quickly. There is no money left to put aside for retirement. They realize that the years spent caring for children and a husband make them less competitive in the labor market, but they cannot stop caring.

A 44 year old woman, Mrs. Mary P. of Maryland, is supporting five children on the salary earned as a clerical worker after the father, a highly-paid Federal employee, abandoned the family. She must supplement her income with assets received from the sale of the couple's home. She, also, cares for her 83 year old mother.

Mrs. Mildred H. of Maryland, 66, was married for 42 years and has a modest salary. She must work as long as possible so that she can save the share of the annuity she is now receiving to provide for herself when the retiree dies and she is no longer able to work. She wants to avoid becoming dependent on her daughter.

A woman, married 26 years and mother of two children, reentered the labor force at age 49. Her low salary required her to live in subsidized housing while the retiree received an annuity based on the highest salary paid to Federal employees.

These women cannot foresee a time when they can retire and comment, "I'll have to work as long as I can." But they know that a severe illness or, eventually, age will force them to quit working. And when they do, the years they spent in homemaking and child-rearing will not count toward their retirement benefits.

Social Mores

The women who are members of CSSE have not been vagrants or slothful. They performed the tasks and fulfilled the role assigned by society and desired by their husbands. Until recently, social mores dictated that a wife and mother remain at home caring for the wage-earner and children. Reliable methods of birth control such as the oral contraceptives were not available during their child-bearing years and day care centers did not exist. Even if a woman overcame these hurdles, employers were unwilling to hire married women and mothers. Along with their family responsibilities, they often devoted their energies and abilities to community service. Spousal Individual Retirement Accounts were not available. There was no way they could provide independently for their retirement income. Their lives were productive and responsible, but they are penalized in their late years for this.

S. 888 and H.R. 2090

Title I, Section 109 of S. 888 and H.R. 2090, the Economic Equity Act, and H.R. 2300 have been introduced in the Congress to prevent additional women from suffering these experiences. This legislation provides that a pro rata share of the annuity can be awarded by a court to a spouse when the couple divorces. It stipulates that the pro rata share cannot be more than 50 percent of the annuity. The pro rata share is based on the number of years of marriage which coincide with the years of CSRS coverage. It makes survivors' benefits automatic so that a wife does not find that her income ends upon her husband's death and so that a divorced widow continues to receive the share that was earned during her marriage. This legislation recognizes the worth of the homemaker's contribution to the marriage.

Costs

S. 888, Title I, Section 109, mandates that a pro rata share may be awarded to the spouse of a ten year marriage. This legislation distributes the annuity payments in a different way from existing legislation. The annuity will be divided between spouses rather than paid to one individual. In this respect, it does not increase the cost to the CSRS. These provisions will apply to individuals who divorce after enactment and will not incur additional costs for the system. Some administrative costs would be incurred.

Those provisions of S. 888 which apply to individuals divorced before the enactment would increase costs slightly to the CSRS in that these women are not receiving an annuity at present. These provisions apply in narrowly defined circumstances and to individuals who were dropped from CSRS when they divorced. The legislation restores eligibility to these individuals and the costs associated with that. Generally, they are older women and their number will diminish over time.

Recommendations

Civil Service Spouses for Equity urges the Committee to recommend prompt passage of this legislation so no additional women will suffer the financial hardships that I have described and know the painful realization that she is deprived by the United States Government for her work as a homemaker and caregiver. Spouses of civil service employees deserve the same financial security that is provided for spouses of other Federal employees and for the majority of Americans through Social Security. Over 2.5 million[4] individuals are affected by this legislation. Swift legislative action will provide protection for the largest number of women. The provisions in this legislation which pertain to individuals already divorced and experiencing these hardships are limited. Though excellent in themselves, the majority of women who are divorced from civil service employees will not be helped. Women such as a divorced widow who was married for 36 years will continue to eke out their existence after a lifetime of commitment to marriage. We ask that some relief be given to their circumstances. CSSE has developed recommendations on ways that the Federal Government could alleviate the hardships of these women and recognize the contributions they have made to their marriages and to society.

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[4] This figure is derived by multiplying the number of Federal employees and retirees by 95 percent and, then multiplying that figure by 62 percent. Ninety-five (95) percent is the marriage rate for U. S. citizens and 62 percent is the percentage of marriages which last for ten or more years. There are 4.4 million Federal employees and retirees. (4.4 x .95 = 4.18, 4.18 x .62 = 2.59). Data were supplied by the U. S. Office of Personnel Management and the U. S. Bureau of the Census.

These are:

1. An annuity based on the years of marriage which coincided with the years of employment by the spouse under CSRS would be paid when the former spouse reaches the age at which a former spouse is eligible for Social Security benefits.

2. Former spouses of civil service employees would be permitted to establish Individual Retirement Accounts post facto for each year as a homemaker in which they did not earn coverage under any public retirement system. A refundability credit would be given to those women whose income falls below a specified level or who are not able because of lack of earned income to open an IRA.

3. A court order designating a spouse or former spouse as beneficiary under the Federal Employees Group Life Insurance policy would be enforced by the Office of Personnel Management.

4. Divorced spouses would be given preference points as displaced homemakers for Federal positions. Many women moved to centers of Federal employment with their husbands and seek Federal employment as they try to build an independent livelihood after a divorce.

5. Child support or past due alimony which is owed to a former spouse because of abandonment or death would be paid from the CSRS.

Submitted to the Committee on Finance, United States Senate.
July 5, 1983.

Florence Keyes Foss

Florence Keyes Foss
President, Civil Service
Spouses for Equity

Citizens' Commission on Pension Policy

P.O. Box 40123
Washington DC
20016

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STATEMENT OF THE CITIZENS' COMMISSION ON PENSION POLICY ON THE RETIREMENT EQUITY ACT AND ECONOMIC EQUITY ACT

JUNE 20, 21, 1983

We are writing to voice our support for the Retirement Equity Act and the Economic Equity Act. Both bills represent important first steps in correcting the special pension problems faced by women.

The Citizens' Commission on Pension Policy is composed of pension losers and the families and friends of workers who have suffered the inequities of pension law. It was formed in 1978 to educate the public and to represent individuals hurt by unfair pension practices. The Commission believes adequate retirement benefits are essential to ensure a sufficient living for all older Americans.

The Commission has developed a series of guidelines we believe would achieve a fair national pension policy. Two of our guidelines address the inadequacies of pension law as it pertains to women. They are as follows:

1. A wife whose husband dies after earning a pension should automatically receive survivor benefits.
2. Pensions should be considered joint property, to be divided in divorce settlements.

We support those provisions of the Retirement

Equity Act and the Economic Equity Act which further those goals. The Citizens' Commission on Pension Policy also believes that workers should receive a pension benefit for every year worked, that social security should not be used to reduce or eliminate pension benefits in any way, and that people should have a right to transfer money from their pension plan to another retirement account when they change jobs. There should be complete "portability."

The need for change is compelling. We can recite a litany of horror stories like the one told us by Gloria DeSantes during a Commission conference. Her husband died after working 33 years for the same company. Had her 52-year-old spouse died at 55, Gloria would have received widow's benefits. Her situation is a common one.

The Retirement Equity Act and the Economic Equity Act are important first steps toward assuring women equal pension rights. Please support both bills so men and women alike can reap pension benefits. We ask you not to stop half way regardless of the political pressure you may face. We ask you to remember that it is the American worker and tax payer who has been unrepresented in policy-making decisions and who must ultimately pay the cost of the retirement income system. We also ask you to remember that pensions are for people.

Mrs. Edana M. Davlin
2756 N. 89th Street
Milwaukee, Wi. 53222

June 10, 1983

The Honorable Senator Robert Dole
Chairman of the Finance Committee
U.S. Senate
SD-221
Washington, D.C. 20510

Re: Senate Committee on Finance
S.19, The Retirement Equity Act of 1983 &
S.888, The Economic Equity Act of 1983

Dear Senator Dole:

The following is a copy of a letter I wrote the Pension Rights Center, 1346 Connecticut Avenue NW, Room 1019, Washington, D.C. 20036 (Ph: 202-296-3778), who sent me a copy of Press Release No. 83-134 on the referenced. The letter itself will declare that I cannot be present to testify, but wish to get my case called to your attention. I received their notice late Thursday, June 9, 1983, so the best I can do is to hope you receive this in time for the hearing and incorporate it somehow into your records. I am severely and permanently handicapped and there is no way I can personally travel to testify.

Letter sent to Pension Rights Center (address above) by Pension Facts, Du Pont Circle Bldg., Washington, D.C. 20000, to whom my letter was originally addressed and written on 4/30/82 follows:

Re: Pension Problems

Enclosed are three memos. Handwritten memo of my late husband Joseph B. Davlin (died 6/4/77), a letter from the Administration Board of the Transport Employee's Pension Plan (please note R.R. Teschner, Attorney, was on this board), and a letter from R.R. Teschner, Attorney, (in which he cites conflict of interest since he was my attorney and attorney for the Transport Co.'s Pension Board and threatened I would in effect have no income and no money to fight the ruling of the Pension Board, since it would take 15 years and have to go to the Supreme Court). Under this threat and no money coming in I was in my good conscience coerced into signing both letters. Consequently my pension of $501.44 terminates 6/30/87. My husband worked for the Transport Co. for 39-plus, or a couple months short of 40 years. In that time he paid into the pension plan and according to his interpretation on 1/1/76 were he to die his spouse (myself) would be entitled to full widow's benefit of $4,400.00 per annum for life.

As you can see, I was literally forced to sign for Plan B ($501.44 for 10 years per month) or nothing. Now, the President of the Transport Co., H. M. Mayer, and the Vice President, G. C. Larson, were the partners who literally came to my home before Joseph was interred with Attorney R. R. Teschner and assured me he was a competent attorney, and having entertained them and their wives at our home, I trusted their selection of an attorney. They knew Attorney Teschner was on their Pension Board. I did not know. Mr. Teschner also knew he was on their Pension Board. I did not know. I have never seen the Plan my husband signed. That was denied me. I was merely told that had he lived one month longer I would have qualified under Plan A. Or, had he had a complete physical examination I would have qualified (had the physical been within the last year of his life). Obviously, since he had no complaints and had an excellent bill of health in 1970 upon complete physical exam, and was on no prescribed medication, he just didn't see a physician.

My husband was the Vice-President and Comptroller of the Transport Co. Since his death, burial, etc., I have heard nothing from anyone for whom he worked 40 years of his life. I do have some minor league Transport Co. friends who hold a great grudge due to the way in which their retirement and pensions were handled and one late spouse who was told her husband didn't live long enough for full pension (he was a close friend of my husband all the years my husband was with the company) and angrily she, like me, feeling coercion and strain signed to receive less benefits. I, however, do not wish to implicate her in this memo since she told me in confidence and seems content as she expressed to me she "is too tired to fight anymore".

You know, I haven't got money to investigate any of this, nor am I physically or emotionally prepared to take on the upper eschelon. I just feel I've been had and your request for this information came to my attention through a friend who saw "The Today Show", Channel 4, with Phil Donahue.

If you need more information I'd almost have to talk with someone about it. If you are in a position to help legally and financially, I'd be interested in hearing from you. I do not wish to underwrite any expense of such an investigation because, quite frankly, I'm physically handicapped and am financially unable to afford such an undertaking.

Sincerely,
Edana M. Davlin
Mrs. Edana M. Davlin

Enclosures:
3 copies of 3 memos
1 Self-Addressed, Stamped Envelope

P.S. My husband died at age 63. He was 17 yrs. older than me, but we had a very happy marriage. He knew I was physically handicapped. I will be 51 years old June 8, 1982. You can readily appreciate my concern. Thank you.

End of Letter Sent Pension
Facts on 4/30/82

Senator Dole, if anything beneficial comes from submitting this letter to you with the same attachments appended to the one above, I will be eternally grateful. With the rate of inflation where it is, the increasing property taxes, and the medical expenses I necessarily incur, a solution to this pension problem that would end up favoring me would be nothing less than a welcomed gift from God and His people who still care what happens to those who have literally been had! I pray, that if nothing can be done to help me, someone in the future will benefit by this letter of testimony, and I will keep my trust in the God of this great nation, America, to provide for me and to help me to be a good steward over what He has given me now! May you work in His Wisdom to better situations like mine. I will always have the treasure in my heart that I did something to try to secure justice in this type of a case, since I will at least have tried! I designate you to present this testimony, or one of your choosing who is competent to do so.

Sincerely,

Edána M. Davlin

Mrs. Edana M. Davlin
2756 North 89 Street
Milwaukee, Wisconsin 53222

cc: Pension Rights Center
1346 Connecticut Avenue NW
Room 1019
Washington, D.C. 20036
Attn: Anne Moss, Director
Women's Pension Project

encs. 3 & Summary attached to this letter.

Summary:

1) Conflict of interest - attorney representing both sides.
2) Informed of this conflict long after attorney took over at which time I was told I could get another attorney, however, I would still have to pay him #13,000 to $15,000 for work done on the case.
3) He knew he represented both sides at time he took the case. I did not know, nor did any of his associates or executives of the Transport Company inform me, and they knew.
4) Signed pension elections by my husband were denied me.
5) Threatened and intimated me (see letter enclosed) as to cost, length of time, need for Supreme Court hearing only after lower court hearings, etc.
6) Coerced by lack of funds to pursue it to settle for a 10-year pension with no cost of living of $501.44/mo.
7) Permanently handicapped with degenerative bone disease. Wear leg braces, use crutches and wheelchair, severe right arm impairment. Require consistent medical and/or surgical care. Would never be able to pursue one court hearing after another physically or financially.
8) I've been had. I know it. It hurts. It hurts even more to know that they have gotten away with it and charged me a high price for their injustice to me!
9) My benefits were not calculated in accordance with my husband's work compensation at the time of his death but on a 1972 actuarial table. It appears to be a contradiction of their own declared pension plan -- but some research would have to be done to prove it.

Sincerely,

Edana M. Davlin

Edana M. Davlin
2756 North 89 Street
Milwaukee, Wisconsin 53222

10/15/76

memo to probate attorney re [illegible] Pension Rights

Under the plan currently in effect (the plan per se has not been written - it is in process of being written by Kasson - apparently he is writing what his understanding is of the plan negotiated with the union as of 4/1/76) employees who are eligible for early retirement and die even with a survivor option on file with Pension Administration Board, are entitled only to the return of their contributions to the pension fund.

I believe the Company and the pension board are legally wrong on the above point. I think there would be two strong bases for a legal contest of that policy.

A. Even assuming that the plan is not presently subject to ERISA because we are government employees. On June 30, 1975 the pension plan was subject to ERISA. Under ERISA, on 6/30/75 the plan had the legal obligation to conform with ERISA by 1/1/76. That means, on June 30, 1975 I had the promise or definite assurance that as of Jan 1, 1976 I would have the full vesting privileges prescribed by ERISA. If I died 1/1/76 my spouse would be entitled to pension benefits because I would be eligible for early retirement 1/1/76;

The agreement of 3/9/75 between Milwaukee County and the union, pursuant to Sec 13(c) of the UMT Act of 1964 provides:

All rights, privileges, and benefits (including pension rights and benefits) of employees covered by this agreement under existing collective bargaining agreements or otherwise, --, shall be preserved and continued; --- such rights, privileges and benefits not previously stated may be modified by collective bargaining and agreement of the operator of the transit system and the Union to substitute rights, privileges and benefits of equal or greater economic value.

B. See the report of the state Retirement Research Committee

They seem to agree that Transport employees are in fact County employees. As I read it, their view is that under the statutes, Transport employees must be covered either by the County plan or by the State plan. There is no provision in the statutes for a special pension plan for Transport employees. I believe they recommend that the statutes be amended to permit Transport employees to be covered by the special Transports plan.

So, it would appear that as of now I am eligible under the County plan or the State plan and my spouse is entitled to the benefits widows get under ~~the~~ such plans. The Transport Employees Pension Plan is not a legal plan under the statutes.

10/15/76

I presume a legal pursuit such as described could be costly for an individual.

This is a matter that the Administration Board of the pension Fund should have resolved itself. Seems possible that if we simply demand payment of pension by them, they might simply get a Corp Counsel (Mr Russell) opinion of no liability and let us take it from there. If our case is good perhaps we could get court to award us recovery of our legal expense.

Another option might be to persuade the union (Division 998) to participate in the case directly or financially.

Karl
P/N and
return
BLT

9/29/76

STATE OF WISCONSIN

RETIREMENT RESEARCH COMMITTEE

STAFF REPORT NO. 36 -- 1977

A REVIEW OF THE MILWAUKEE CITY AND COUNTY PENSION PLANS

SECTION I. SCOPE AND PURPOSE OF STUDY

SECTION II. THE MILWAUKEE CITY EMPLOYES' RETIREMENT SYSTEM

SECTION III. THE MILWAUKEE CITY POLICEMEN'S AND FIREMEN'S ANNUITY AND BENEFIT FUNDS

SECTION IV. THE MILWAUKEE COUNTY EMPLOYEES' RETIREMENT SYSTEM

SECTION V. THE TRANSPORT EMPLOYES' PENSION PLAN (County)

SECTION VI. TRANSPORT EMPLOYEES STATUS AND PENSION COVERAGE

SECTION VII. OTHER AREAS OF POSSIBLE RRC STUDY

SECTION VIII. APPENDIX

Prepared by RRC Staff
Blair L. Testin, Director

QUARLES & BRADY
780 NORTH WATER STREET
MILWAUKEE, WISCONSIN 53202
(414) 273-3700
CABLE: LAWDOCK

[illegible]

WASHINGTON OFFICE
ONE FARRAGUT SQUARE SOUTH
WASHINGTON, D.C. 20006
[illegible]

[illegible]
RESIDENT PARTNER

FLORIDA OFFICE
[illegible]
P.O. BOX [illegible]
PALM BEACH, FLORIDA [illegible]
[illegible]

[illegible]
RESIDENT PARTNER

[illegible]

OF COUNSEL
BERNARD V. BRADY
RICHARD H. TYRRELL

[illegible]

*ALSO ADMITTED TO PRACTICE IN WASHINGTON, D.C.
†ALSO ADMITTED TO PRACTICE IN FLORIDA
††NOT ADMITTED TO PRACTICE IN WISCONSIN

July 27, 1977

Mrs. Edana M. Davlin
2756 N. 89th Street
Milwaukee WI 53222

Re: Pension plan problems

Dear Mrs. Davlin:

As I told you over the telephone on past occasions, there is a problem in connection with your rights under the pension plan of T.E.M.B.S., and the possibility that you might be included in the Milwaukee County's pension plan as the surviving widow of a county employee.

The problem arose when the county took over the transport system in mid 1975 by forming a private corporation which assumed the Transport Corporation's pension plan under which Joe had originally selected Plan B. Shortly before his death he had revoked "B" and elected Plan "A" which required meeting certain conditions, to wit: (a) either surviving one year from date of election, or (b) furnishing the Pension Board with a medical certificate of such quality that he would have been able to obtain ordinary life insurance at standard rates. Joe failed to meet either of these conditions.

As you know, in making his election of Plan A he had revoked his election under B. However, the Pension Board and the Company have now taken a position, based on a legal opinion which they obtained independently, that failure to comply with the conditions necessary for undertaking Plan A, he did not effect a final revocation of Plan B, and Plan B was restored.

The Company has now sent you the first check which I understand is approximately $501.00 per month and similar amounts, less insurance deductions, will be paid to you for a period of ten years.

The problem that causes the necessity for this letter arises out of the situation under which Joe had left a memorandum to his "probate attorney" indicating that there was a possibility that he would be qualified for a pension under the county or state system because of the take-over by the county.

I have consulted with corporation counsel Robert Russell who is the head of the legal staff of Milwaukee County, and explained the situation arising out of Joe's memorandum and discussed the matter with him in general. He made it very clear that he disagreed with the possibility mentioned by Joe in his memo, and stated that in order for Joe to be deemed to have become a county employee, as of the date of the take-over in 1975, he would have to have a decision of the Wisconsin Supreme Court making that determination. A determination made at a lower level would not be acceptable.

He pointed out that with Joe's salary at the date of retirement of approximately $37,000 per year, the maximum pension for a surviving widow that could possibly be obtained, and then only by decision of the Wisconsin Supreme Court, would be approximately $90.00 a month, albeit that this would be for life. The present value of such payments for life for you at age 56 is $12,350.12, based on best current actuarial tables.

The arithmetic of this possibility, as contrasted to the pension you can receive under Plan B, makes it rather clear that you are better off financially under Plan B. However, as I mentioned to you, there is a conflict of interest in our office in that we represented the Transport Company prior to its take-over and were involved in the structuring of the transfer to County control via the private corporation route.

Therefore in giving you advice about which plan to take we would have a conflict of interest and you should have independent counsel to confirm or challenge our advice to you. I pointed out to you that such independent counsel could be rather expensive. Even if such counsel took the view that Joe was a county employee, you would have to expect litigation that would take years to complete, and that would be extremely expensive unless you could get a class action started involving all of the managerial employees of the present transit company. This latter is highly impractical, expensive and totally beyond your capacity for payment. You would also have a waiting period during which time you would not be receiving any pension money for your living expenses.

You indicated that you understood your rights - that you understood that you had the right to go to independent counsel for an opinion. However, you also understand that the practical matters involved were such that you were willing to waive that right, and are accepting the monthly pension under Plan B for a ten year period from the present transit system under the plan which was formulated by the Transport Corporation and assumed by the new Transit System Corporation.

In order that our records may be clear, if you agree with the analysis in this letter, and the practical aspects of it, please sign the enclosed xerox copy of this letter and return it in the addressed and stamped envelope.

Very truly yours,

Richard R Teschner

Richard R. Teschner

cc: Galen Larsen
Charles Poehlmann

Encl.
/a

Dated this 28th day of July, 1977

Mrs. Edana M. Davlin

I have carefully read the above letter and understand it. I also understand that I have the right to have independent counsel to advise me on the rights I might have under the county system. I, nevertheless, accept the present pension under Plan B.

ADMINISTRATION BOARD
TRANSPORT EMPLOYES'
PENSION PLAN

3939 West McKinley Avenue Milwaukee, Wisconsin 53208

July 19, 1977

Mrs. Joseph B. Davlin
2756 North 89th Street
Milwaukee, Wisconsin 53222

Dear Mrs. Davlin:

We hereby inform you that at a meeting held on Friday, June 15, 1977, the Administration Board of the Transport Employes' Pension Plan in accordance with the provisions of the Plan, approved Option B as the benefit for which you are eligible. This is the Survivor Option that Mr. Davlin elected in February of 1972.

Although Mr. Davlin had on August 4, 1976, elected to change the Survivor Option to Option A(1), he did not fulfill the requirements of effecting such change, specifically a one year waiting period or, in the alternative, evidence of good health. The Plan defines good health as "a condition of health which would qualify the employe for life insurance at a standard (normal risk) rate."

As Mr. Davlin's beneficiary you are entitled to an actuarial reduced monthly benefit beginning July 1, 1977, and extending to and including June 30, 1987. Your monthly benefit has been determined as outlined in Section 5 Paragraph 5.1 of the Transport Employes' Pension Plan and amounts to $501.44 per month.

We have attached your first check in the amount of $501.44 which constitutes payment retroactive to July 1, 1977. Effective August 1977 and from that point forward all monthly benefit checks will be mailed to your home address on or about the seventh (7th) of each month.

You are aware that as the surviving spouse of Mr. Davlin you are entitled to participate in our full Health Insurance Program at a cost of $45.70 per month which includes Major Medical coverage. Mr. Ray Boettcher, Secretary-Treasurer, T.E.M.B.S. has indicated to us that you have paid the monthly premium through August 31, 1977. You may continue to pay your monthly premium in this manner or have it automatically deducted from your monthly benefit check. Should you prefer the latter please contact me accordingly. Any questions pertaining to your Health Insurance Coverage should be referred to Mr. Boettcher.

Again, we are pleased to provide the benefits indicated above. If you have any questions, please contact me accordingly.

Very truly yours,
ADMINISTRATION BOARD
TRANSPORT EMPLOYES' PENSION PLAN

Howard N. Liebscher

Howard N. Liebscher
Secretary-Treasurer

HNL/jl

cc: R. H. Boettcher
G. C. Larson
H. M. Mayer
R. R. Teschner (Attorney)

Notified of acceptance this 28th day of July, 1977 & Authorized T.E.M.B.S. deductions the same date.

Mrs. Edna M. Davlin

The DOMESTIC RELATIONS ASSOCIATION of PENNSYLVANIA

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June 29, 1983

Mr. Roderick A. DeArment
Chief Counsel
Committee and Finance
Room FD 221
Dirksen Senate Office Building
Washington, D.C. 20510

Re: S 888
Economic Equity Act of 1983

Dear Mr. DeArment:

We have received a copy of the Economic Equity Act of 1983 and are compelled to express the views and concerns of the membership of this organization which represents certain professionals engaged in the field of Domestic Relations within the Commonwealth of Pennsylvania.

This association views several sections of the proposed legislation favorably; however, we have serious concerns regarding others.

It is clear that Congress originally intended for the IV-D program to be available for all children entitled to Child Support whether the child received aid for family with dependant children or not. It is also clear that the Equal Protection Clause of the United States Constitution protects all citizens by mandating that laws be applied equally to all persons similarly situated. It would, therefore, be fundamentally unfair to avail the IV-D program with the services, benefits and protections thereunder to children receiving AFDC while at the same time denying or applying differently such services, benefits and protections to those children who are not receiving AFDC. For these reasons, this association is in favor of clarifying the congressional intent that the IV-D program applies equally to all children in need of child support. For the same reason, we are in favor of amending section 464(a) of the Social Security Act and section 6402(c) of the Internal Revenue Code so that the federal income tax refund offset program would be available to enforce delinquent support orders on behalf of children not receiving AFDC.

The benefits of mandatory wage assignments of federal civilian employees upon notification from the Court that a support order has been entered are apparent. To that extent this section is also favorable.

Domestic Relations Sections within the Commonwealth of Pennsylvania have been and are continuing to seek medical support in appropriate cases as part of the support order. Likewise, pursuant to applicable Pennsylvania law, support orders routinely incorporate wage assignments as part of the support order. Obligors are advised of the benefits of a wage assignment and are encouraged to voluntarily have their wages attached at the time the order is entered or upon missing a specific number of payments. Wage assignments are also ordered in cases where obligors failed to maintain current payments.

Pursuant to Pennsylvania Rules of Civil Procedure Governing Support Actions, upon motioning the Prothonotary and filing a certification of arrearages as recorded by the Domestic Relations Sections, an obligee may have arrearages reduced to judgment with a resulting lean against property of the obligor. As such, Pennsylvania obligees have a distinct enforcement remedy concurrent with wage assignments and other enforcement and contempt of Court remedies presently available.

As authorized by title 42, Pennsylvania Consolidated Statutes Annotated, section 6131, et seq, entitled Uniform Act on Blood Test to Determine Paternity, Pennsylvania Courts and Domestic Relations Sections have been employing blood tests, more specifically, the Human Leukocyte Antigen blood test as a scientific tool in resolving those child support cases in which paternity is questioned. Positive blood test results are also used to resolve the issue of paternity in appropriate cases by stipulation of parties without the delay and expense of a trial.

The above comments are offered to those appropriate sections of the proposed act for review and consideration. However, there remains three sections of the proposed act to which we have serious concerns. The section involving the child support clearing house is indeed troublesome. Title 42, section 6706(b) of the Pennsylvania Consolidated Statutes Annotated requires all support payments be made payable through the Courts' Domestic Relations Sections. Pursuant to this law, the sixty-seven Pennsylvania County Domestic Relations Sections have, for some time, established an effective and sophisticated system of collecting, monitoring and distributing support payments ordered by the Court, not only for cases initiated within the Commonwealth of Pennsylvania, but also for cases initiated by other states under the Revised Uniform Reciprocal Enforcement of Support Act. In fact, many of Pennsylvania's Domestic Relations Sections have sophisticated, computerized systems which monitor and track support accounts, distribute support payments and initiate enforçement processes on delinquent cases. For those Domestic Relations Sections not requiring computerization, a comparably effective manual system is in place. In Pennsylvania, these same services are applied to non-AFDC cases as well as to those cases in which a support order has been assigned to the Commonwealth of Pennsylvania. The imposition of the clearing house would prove to be counter productive, unweidly to administer and regressive. It is, therefore, respectfully recommended that this section be deleted.

Concern further lies with the section requiring the offset against tax refunds to collect past due support in states which impose income taxes. Officials from the Pennsylvania Department of Public Welfare report that that agency had investigated this concept and learned that due to the nature of the Pennsylvania flat 2.2 % tax only 8 % of the state population received a state refund with the average refund being $62.00. The Pennsylvania Department of Public Welfare has determined that the cost to implement and operate a state income tax intercept program would exceed the collection potential. This association opposes this section for the same reasons and for the added reason that if efforts must be put in such an unproductive area, resources will be diverted from more effective means of enforcing support orders.

The last section for which we have concern is that which requires a quasi-judicial or administrative process to establish and enforce support orders. The Pennsylvania Domestic Relations Sections have for many years employed a diversionary system of establishing and enforcing support orders whereby parties are ordered to appear before conference officers for the purpose of resolving the support case. These procedures apply to all cases, AFDC and non-AFDC as well as cases in which paternity must be established. This approach has proven highly successful in disposing of support cases without the need of a full Court hearing. The Pennsylvania Rules of Civil Procedure Governing Actions for Support have expanded and made mandatory these procedures. The imposition of a quasi-judicial or administrative process without further definition and without consideration of the present procedures followed by Pennsylvania Courts and Domestic Relations Sections could prove counter-productive and regressive.

This association is dedicated to improving the quality of life for all children in need of child support by improving the quality of services provided. It is our belief that these sections of the Economic Equity Act of 1983 objected to above will serve no useful purpose to this end and should be deleted. As such, it is respectfully recommended that our views and objections be considered.

Sincerely,

Kathyrn T. Bard
Kathyrn T. Bard, President

Joseph J DiPrimio
Joseph J. DiPrimio, Esquire
Suite 1010, 1600 Walnut Street
Phila., PA 19103
(215) 686-7726, 27

JJDiP/dci

cc: Honorable Arlen Spector
Honorable John Heinz

STATEMENT OF
THE ERISA INDUSTRY COMMITTEE (ERIC)
FOR THE RECORD OF THE JUNE 22, 1983, HEARING ON PENSION RIGHTS FOR WOMEN (S. 19 and S. 888)

BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

July 1, 1983

This statement is submitted for the record of the June 22, 1983, hearing on S. 19 and S. 888 on behalf of The ERISA Industry Committee (ERIC), an organization of more than one hundred major employers which maintain employee benefit plans.

ERIC members include half of the nation's fifty largest industrial companies and represent a broad cross-section of the nation's largest retailers, utilities, banks, and insurers. Employee benefit plans sponsored by ERIC members provide significant benefits to a broad cross-section of both men and women.

Overview

ERIC supports the Committee's review of certain provisions of the Code and ERISA which could be perceived as disadvantageous to women. However, as indicated in ERIC's April 11, 1983, testimony before the Subcommittee on Savings, Pensions, and Investment Policy, there is growing concern that constant legislative and regulatory change is detrimental to plans, especially defined benefit plans. Thus, we urge the Committee to consider most carefully the full implications of adopting any legislation which would require review of and/or amendments to existing plans.

More specifically, ERIC supports the proposals to modify ERISA's restrictions on assignment or alienation of benefits in the case of divorce and to permit increases in allowable mandatory distributions on termination of service. These provisions would clarify the responsibilities of plan administrators and employers, would decrease administrative costs, and would not require plan amendments.

ERIC is concerned that many of the other provisions in S. 19 and S. 888 would not provide significant benefits for women or other participants and, indeed, would result in significantly increased administrative costs which would be detrimental to all plan participants. ERIC's specific reasons for opposing these provisions are discussed below. ERIC takes no position on those provisions of the bills which do not relate directly to employer-sponsored employee benefit plans.

Required Participation at Age 21

ERIC opposes the proposals to lower the maximum age for participation from age 25 to age 21. In describing the minimum age and service requirements in the Finance Committee bill which eventually culminated in the enactment of ERISA, the Committee stated:

> Of course, the general desirability of early participation must be balanced against the cost involved for the employer. Also from an administrative standpoint, it is not desirable to require coverage of transient employees, since benefits earned by short-term employees, in any case, are quite small. On the other hand, the committee believes that overly restrictive age and service eligibility requirements can arbitrarily frustrate the effective functioning of the private pension system. . . .
>
> The committee believes that this [age 30] rule will significantly increase coverage under private pension plans, without imposing an undue cost on employers. From an administrative point of view, however, the rule will allow the exclusion of employees who, because of youth or inexperience with the job in question, have not made a career decision in favor of a particular employer or a particular industry.[1]

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[1] Senate Committee on Finance Report on S. 1179, S. Rep. No. 93-383, 93d Cong., 1st Sess. 39-40 (1973). Identical statements were included in the House Committee on Ways and Means Report on H.R. 12855, H.R. Rep. No. 93-807, 93d Cong., 2d Sess. 44 (1974), and in the material in the nature of a Committee Report on H.R. 12906 (which became a substitute for the text of H.R. 2) placed in the Congressional Record by the House Committee on Education and Labor, 120 Cong. Rec. H. 1094, H. 1105 (daily ed. Feb. 25, 1974). Both the Ways and Means and Education and Labor versions of the bill contained the age 25 requirement which was adopted in ERISA.

ERIC firmly believes that the balance struck in ERISA between age 25 participation and administrative burdens was correct in 1974 and is correct now.

Studies indicate that reducing participation to age 21 will have only a minimal impact on the ultimate benefits earned by most participants.[2] Most workers under age 25 are highly mobile and do not remain with their early employers long enough to vest. Even for those few who would vest, any additional accrued benefit resulting from such earlier participation would be relatively minor since such employees are at the beginning of their working careers and, in virtually every case, receive relatively low wages.

On the other hand, inclusion of younger participants would be expensive. Actuarial costs, recordkeeping requirements, and reporting and disclosure burdens would be significantly increased. For defined benefit plans, merely the increased PBGC premium, if it becomes $6 per participant, could result in several thousands or tens of thousands of dollars in additional costs per employer per year, even though for most young employees the PBGC would never guarantee the additional accrued, but not vested, benefit.

Accordingly, the limited benefit which would result from reducing the maximum participation age would not justify its substantial cost and administrative burdens.

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[2] Statement of Dallas L. Salisbury, Executive Director, and Sylvester J. Schieber, Research Director, Employee Benefit Research Institute before the Senate Committee on Finance on S. 19 and S. 888, June 20 and 21, 1983, 30-34.

Joint and Survivor Consent

A major impetus for the proposal to require spousal consent for an effective election "out" of the required joint and survivor annuity appears to be a feeling that, because up to 60 percent of current participants may now elect not to receive joint and survivor coverage,[3] spouses need greater protection. On the other hand, in some 51 percent of current marriages, both spouses are now employed.[4] While these statistics may not be directly correlated, many who refuse joint and survivor annuities may do so because the spouse is employed and will receive his or her own retirement benefit. Others may choose what they consider more appropriate benefits, such as a guaranteed term annuity (which may also include a survivor benefit) or a lump sum distribution. They may also decline a joint and survivor annuity because the spouse is adequately protected through insurance, savings, or other sources.

Nevertheless, plan administrators and employers would face significant difficulties in verifying compliance with the proposed requirement. Employees are generally reluctant to provide their employers with personal data which generally are none of the employers' business. Many may be insulted by the implication that their spouses have not been consulted. Significant issues would arise in situations in which the employee and spouse are not living together or the legal status of the living arrangement of the employee and another is questionable.

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[3] Statement of the Honorable Geraldine Ferraro before the Senate Committee on Finance on S. 19 and S. 888, June 21, 1983.

[4] U.S. Department of Labor News Release 82-276, Table 3 (1982).

ERIC strongly urges the Committee to reject any requirement that the employer or plan administrator obtain the signature or consent of any party other than the participant for the joint and survivor election.

Reversal of BBS Associates

ERIC opposes the proposal to reverse BBS Associates, Inc. v. Commissioner, 74 T.C. 1118 (1980), aff'd 661 F.2d 913 (3d Cir. 1981). That decision permits plans to provide a type of benefit other than a joint and survivor annuity as the "normal" form of benefit, so long as, if the participant elects an annuity option, the joint and survivor annuity will automatically be paid, unless the participant further elects otherwise.

Prior to the BBS Associates decision, many defined contribution plans, which, prior to ERISA, offered a lump sum distribution or other type of benefit as the "normal" form of benefit but an annuity as an option, were forced either to eliminate any annuity option or to make the joint and survivor distribution the "normal" form of benefit. Most employers chose to delete any annuity option. Many are now amending such plans to again afford employees a joint and survivor annuity option. Overruling the BBS Associates decision would again force this choice and would halt this trend. Thus, it would effectively decrease, not increase, survivor protection.

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In many cases, a defined contribution plan is not the principal retirement plan of an employer. In any case where the employer maintains another plan which provides a joint and survivor annuity as the "normal" form of benefit, the supplemental defined contribution plan should be relieved of that requirement.

Pre-Retirement Survivor Benefits

ERIC strongly opposes S. 888's well-intentioned, but ill-conceived, requirement that plans which provide annuity options must pay survivor benefits in any case in which a participant has more than ten years' service.

Plans are designed and funded to pay benefits upon attaining retirement age, whether that age be the "normal" retirement age of 65 or some earlier age, generally 55. Benefit levels are designed to replace pre-retirement income, not to assure an appropriate level of income in the case of premature death. ERISA currently requires that an employee be given the option to elect a joint and survivor benefit at the later of the early retirement age or ten years before attaining the plan's normal retirement age, on the theory that the employee could have retired at that point and received a reasonable annuity.

ERIC questions the value of the proposed survivor benefit to the survivor. As a practical matter, the benefit accrued at the point of early death, particularly for a younger participant, would be small, and the reduction for the survivor annuity would, in most cases, render the individual's benefit miniscule.

Furthermore, the benefit would not be payable until the deceased participant would have reached the plan's earliest retirement age, which could be fifteen or twenty years after the participant's death. Group life insurance is the most common type of employee benefit and provides a far more immediate and meaningful benefit to the survivor, and, thus, more meaningful protection especially for younger widows, than the proposed survivor benefit.

The proposed requirement that all ten-year employees be entitled to survivor benefits, regardless of age, would convert plans into a type of life insurance program that they were never intended or funded to be. Recordkeeping costs would be increased to account for very small benefits and to keep track of the identities and locations of survivors who may frequently relocate between a participant's death and the time when the survivor annuity becomes payable.

Maternity Break-In-Service Exception

ERIC questions the need for the proposed break-in-service exception for maternity and paternity leaves and strongly opposes the proposed requirement that additional benefit accrual and vesting credit be given for such unpaid absences.

ERIC does not oppose motherhood or family life; it supports them. However, ERIC believes that ERISA's existing break-in-service provisions adequately protect women taking employer-approved maternity leaves.

Under ERISA, no break in service occurs so long as the employee has over 500 hours of service during the year. Thus, a full-time (40 hours per week) employee who works thirteen weeks during a year will not have a break in service even if she is absent on maternity leave for the remaining nine months. Indeed, a new mother could theoretically work the first three months of one year and the last three months of the subsequent year, taking leave for the intervening eighteen months, without suffering a break in service under ERISA.

Even if a new mother is absent long enough to suffer a break in service, ERISA requires that her previous service be taken into account after she has been re-employed for a period equal to the break in service. In other words, if a woman participated in a plan for two full years, took two full years' maternity leave (and suffered a break in service), and then was re-employed by the same employer for two years, she would have four full years of service for vesting and benefit accrual purposes.

Pensions are part of compensation for services provided and are based on years worked for an employer. Many employers do not provide benefit accrual or vesting credit for unpaid leaves of absence for any purpose, even if approved by the employer. Some provide such credit for disability leave; if so, they already are required by EEOC regulations to provide equal credit for that period of maternity leave due to the new mother's disability. We see no reason for treating maternity leave any differently than other approved disability leave.

Finally, ERIC strongly opposes the inclusion of paternity leave in any provision. Maternity leave is a type of disability leave because the woman is physically unable to perform employment services. Paternity entails no such disability.

Assignment of Benefits Upon Divorce

As indicated above, ERIC supports the proposed amendment of the anti-alienation provisions in ERISA and the Code to clarify the responsibilities of plan administrators and employers faced with court decrees assigning or dividing benefits incident to divorce. Under current law, plan administrators face the dilemma of ignoring court orders or failing to comply with the provisions of the Code and ERISA which, at least nominally, preempt state law. The proposals are particularly beneficial in limiting the ability of state courts to order payments which would conflict with the underlying plan provisions regarding the types, timing, or amounts of benefit payments. ERIC also supports the limitation on a court order to the amount of the participant's accrued benefit, although it should be clarified that the limit applies as of the time of the divorce.

We, however, are confused by the provision which would require that the divorced spouse be offered a life annuity even if the court had not so ordered or, indeed, had ordered a limited number of payments or a terminable interest, for example, for child support. In addition, certain technical issues should be clarified before enactment. For example, would the qualified joint and survivor annuity of a subsequent spouse be computed on the basis of the participant's entire accrued benefit (disregarding the divorced spouse's rights) or on the basis of the remaining accrued benefit after reduction for the divorced spouse's rights?

Mandatory Cash-Out Amount

As indicated above, ERIC supports increasing the ceiling on mandatory distributions upon termination from $1,750 to $3,500. At a minimum, the proposed increase merely reflects the effects of inflation since the $1,750 ceiling was adopted in 1974 in ERISA.[5] More importantly, it will reduce plan administrative costs associated with administering small amounts for what may be extended periods.

Unisex Actuarial Assumptions

S. 888 would prohibit the payment of any annuity benefit by an insuror or plan administrator which is based on sex-differentiated actuarial assumptions. The validity of sex-differentiated actuarial assumptions has been and is the subject of much debate, including extensive hearings before this and other Committees. Whether or not they are now to be prohibited, many plans have based funding and benefit payments on them.

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[5] For example, a comparison of the Consumer Price Index for the third quarter of 1974 and for the first quarter of 1983 indicates that the value of the dollar has diminished approximately 50% over that time period. U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, June 22, 1983.

S. 888 would require that all payments made after the date of its enactment be increased to the level that would have been due under the sex-differentiated actuarial assumptions to the most advantaged sex. This would place severe strain on the funding of many plans. It would require the adjustment of benefits which had been in pay status for many years. Employer contributions would be significantly increased. Administrative costs and burdens would be severe. Perversely, even the Department of Labor has shown that men, rather than women, would gain the most advantage from these changes.[6]

Regardless of the merits of the proposal for future benefit accruals, ERIC strongly opposes the retroactive effect of the provision. Benefits currently in pay status and benefits accrued prior to the effective date must be left undisturbed.

Respectfully submitted,

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and
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[6] Statements of T. Timothy Ryan, Jr., Solicitor of Labor, U.S. Department of Labor, before the House Subcommittee on Commerce, Transportation, and Tourism of the Committee on Energy and Commerce on H.R. 100, February 22, 1983, and before the Senate Committee on Commerce, Science, and Transportation on S. 372, April 12, 1983.

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July 8, 1983

The Honorable Robert J. Dole
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Re: Written Statement for the June 20 and 21 Hearings on S. 19 and S. 888

Dear Mr. Chairman:

This statement is respectfully submitted on behalf of the Western Conference of Teamsters Pension Trust Fund (the "WCT Plan") for consideration by the Committee on Finance in connection with the June 20 and 21 hearings on S. 19, the Retirement Equity Act of 1983, and S. 888, the Economic Equity Act of 1983, and for inclusion in the printed record of those hearings.

The WCT Plan is the largest multiemployer pension plan in the United States. The WCT Plan currently receives contributions on behalf of more than 500,000 employees working under Teamster collective bargaining agreements with nearly 15,000 employers in 13 western states, and currently pays benefits to more than 100,000 persons. The WCT Plan is administered by a 28-person Board of Trustees, consisting of an equal number of employer and union representatives, pursuant to the Labor-Management Relations Act, 1947.

SUMMARY OF COMMENTS

The views of the WCT Plan on those provisions of the bills which would directly affect the funding of benefits and/or the administration of the Plan may be summarized as follows.

I. The WCT Plan strongly supports amendments to ERISA that expressly permit the assignment of pension benefits under court orders and agreements relating to family support or community property. We believe it is extremely important, however, that reasonable Federal procedures also be provided in order to further clarify the rules, and to minimize the potential for litigation, for the benefit of all concerned. We also recommend that the proposed requirement to make a single life annuity available to former spouses be deleted because of the additional administrative expenses and burdens that it would necessarily impose on plans, and because it improperly expands the obligations of plans to persons other than their participants.

II. While the WCT Plan has no position on the basic principle of Title III of S. 888 (nondiscrimination in insurance), consistent with the policy which is reflected by the recent decision of the U.S. Supreme Court in the Norris case, we strongly oppose the enactment of such legislation in any form that would require significant and immediate increases in the actuarial value of benefits accrued before its enactment (both with respect to benefits currently in pay status and pre-enactment accrued benefits that will be paid in the future).

III. In regard to the proposed joint and survivor annuity changes --

(A) We oppose the proposed expansion of ERISA's early survivor annuity requirement to all vested, married participants as a costly and unnecessary perceived improvement that, in most cases, will merely be supplemental to, or a substitute for, group life insurance benefits.

(B) We recommend that the proposed spousal consent requirement be modified to address situations where the spouse of the participant cannot be located when benefits are scheduled to commence.

IV. Multiemployer plans should be permitted adequate time -- such as one collective bargaining agreement cycle -- to implement any changes with regard to maternity or paternity leave. In addition, employers should be required to provide multiemployer plans with the information necessary to provide proper credit for maternity or paternity leave.

DETAILED COMMENTS

I. Assignment of Benefits in Domestic Relations Proceedings (Sec. 5 of S. 19; Sec. 104 of S. 888)

A. Procedural Rules Should Be Added To Further Reduce Uncertainty

The WCT Plan strongly supports amendments to ERISA to make it clear that pension benefits may be assigned or divided in the context of domestic relations matters, such as under agreements and court orders relating to divorce, marital or child support and community property. However, we strongly recommend that Federal procedural rules also be added to eliminate or minimize a variety of additional conflicts that frequently arise and will continue to arise. As described below, the addition of such procedural rules would further the intent of section 5(a) of S. 19 and section 104 of S. 888 to facilitate the division of pension benefits in appropriate circumstances.

The apparent conflict between the rules of ERISA and the rights of divorced or separated spouses and their children has created a great deal of unfortunate litigation, delay, and expense. Although the general judicial trend has been to permit the assignment of pension benefits to satisfy family support obligations, this issue continues to be litigated. S. 19 and S. 888 would provide needed certainty by removing from ERISA's general preemption and anti-alienation provisions those family support agreements, court orders and property settlements that are sufficiently explicit regarding the benefits to be paid and the identity of the payee, and that comport with the terms of the plan.

However, S. 19 and S. 888 would leave unresolved many important questions that frequently arise in the numerous cases where the property settlement or court order is entered years before the benefits are to be paid. For example, what further steps, if any, should be taken by a plan when the court order is not specific with respect to matters such as the form or amount of the benefits to be paid to the former spouse? In this common situation, plans do not know whether to guess at the court's (and the parties') intent, or whether to seek further clarification, if it can be obtained. Another common problem is determining the proper procedure for notifying former spouses that benefits are to commence, and what to do with amounts that are payable when former spouses cannot be located. An additional unsettled question is whether a former spouse receiving benefits from a plan is a "participant" for various ERISA purposes (e.g., reporting and disclosure, PBGC premiums, etc.). We are concerned that, in the absence of uniform procedural rules that provide reasonable mechanisms for resolving problems of these types, the proposed amendments to ERISA will not substantially achieve the objectives of providing certainty to the parties and reducing litigation.

The additional burdens and costs caused by the uncertainty in present law are illustrated by the experience of the WCT Plan. In the five-year period from 1978 through 1982, the Plan has been involved in more than 1,400 new family support and community property cases. Many of these cases continue almost indefinitely, and a large number involve participants who are years away from actually receiving benefits. We are anticipating over 400 new cases in 1983 alone. In many cases, the WCT Plan is actually joined as a party to the domestic relations dispute, pursuant to specific provisions under California law or other similar state laws. In other cases, significant plan involvement has been determined to be necessary to avoid duplicate claims and liability and contempt citations, as well as to minimize the incidence of court orders or property settlements that are contrary to the terms of the Plan or applicable law.

In summary, while we support the enactment of section 5(a) of S. 19 (and sec. 104 of S. 888), we also urge the Committee to consider additional provisions along the lines outlined above. In particular, we believe the Committee should consider incorporating many of the provisions contained in section 1606 of H.R. 3071 (the "ERISA Simplification Act of 1983", sponsored by Congressmen Conable, Erlenborn and others) in order to provide a more comprehensive solution to the problems that have arisen -- and will continue to arise -- in the domestic relations/employee benefits fields. We would be pleased to work with the Committee and its staff toward the enactment of legislation that fairly resolves the legitimate concerns of participants, spouses and plans in this important area.

B. Single Life Annuities and Other Special Distribution Rules Should Not Be Included

Section 5(b) of S. 19 would require any pension plan that provides benefits in the form of an annuity to make a single life annuity available to any individual receiving benefits from the plan pursuant to a domestic relations agreement or court order.*/ This requirement would impose substantial administrative costs on pension plans. Many court orders simply assign a portion of benefits for alimony or family support. Frequently, the orders apply only for a fixed period of time or up to a specified cumulative amount of funds. The proposed requirement, however, would force plans to retain their actuaries to compute the present values of the assigned portions of all benefits (even if the benefits would only be payable to the former spouse for several months or years), to convert that value to a single life annuity, etc. Moreover, there would be additional administrative and recordkeeping expenses in recording the new benefits to be paid, appropriately adjusting the future benefits of the participant spouse, and keeping track of subsequent payments.

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*/ This would appear to require that children, as well as former spouses, be permitted to elect to receive their benefits in the form of a separate annuity that would not be contingent upon or otherwise related to the survival of the participant spouse.

We respectfully submit also that the proposed special distribution requirements would unnecessarily and inappropriately expand the obligations of plans vis-a-vis participants and their former spouses. Initially, the provisions of section 5(a) of the bill would clearly permit the parties to agree that the participant will elect a specific form of payment which is otherwise available under the plan. Any such agreement should be binding, as a matter of contract law, on the participant. Moreover, to the extent that payments have simply been ordered by a court, we question whether the Committee should attempt to expand on the basic policy of the bills (as well as the court decisions in this area) -- i.e., to ensure that the participant's obligations to his or her former spouse may be satisfied from any plan funds that are or will be available to the participant in such forms, and at such times, as are already provided by the plan.

The language of section 5(b) of S. 19 also raises other possible problems. In particular, the bill provides that the single life annuity must be made available to the former spouse or child not later than the plan year in which benefits are "made available" to the participant spouse. The use of the phrase "made available" may be interpreted to mean that if the participant spouse could elect to receive benefits (such as early retirement benefits), but instead chooses to continue working, benefits have been "made available" to the participant spouse and an immediate annuity must be offered to the former spouse or child. Thus, in situations such as where the participant spouse does not wish to elect early retirement, or does not wish to retire at normal retirement age, it appears that benefits might have to be paid to the former spouse (or child) years before benefits are paid to the participant. Such accelerated distributions would severely complicate benefit calculations and administration, and would thus add to the expense and burdens imposed on pension plans. (Indeed, the "made available" concept itself would raise a plethora of issues which

Congress only recently decided to put to rest in the income tax context.) Moreover, as noted above, such a requirement goes well beyond the proper scope of Federal law in this area, i.e., to make it clear that private pension benefits are resources which are available to satisfy family obligations, but not to expand or otherwise change the obligation of plans to employee-participants. Accordingly, we recommend that, if the single life annuity requirement is nevertheless retained, it be made clear that payments under the single life annuity need not be made prior to the earlier of the participant receiving benefits or reaching normal retirement age.

C. The Amount of Benefits Which May Be Assigned Should Be Left To The Discretion of the Parties Or Courts

We also suggest reconsideration of the provision in section 5(a) of S. 19 that would limit the amount of benefits that may be assigned or alienated to the accrued benefit of the participant or beneficiary, and would provide for the issuance of Treasury Regulations for determining the value of such accrued benefit. This provision would be in direct conflict with the marital property laws of several states. For example, it is clear in California that the division of pension benefits for community property purposes is not strictly limited either to the present value of the accrued benefits at the time of separation to the percentage of benefits which was actually vested at that time.*/

We are also concerned that the regulations under this provision would needlessly increase administrative burdens and complexity, instead of simplifying and clarifying the law. In our view, the maximum amount to be assigned or alienated should be left to the judgment of the parties or courts, subject to any applicable state laws and to the basic requirement of the bills that the agreement or order be consistent with the terms of the plan.

II. Nondiscrimination in Insurance (Title III of S. 888)

While Title III of S. 888, the "Nondiscrimination in Insurance Act" (hereinafter, the "Act"), may not be the principal focus of these hearings, some of the proposals made in the Act are of such major importance to the WCT Plan that some relatively brief comments must be made.

Although styled as a proposal to regulate the insurance industry, the Act may also directly and substantially regulate pension plans such as the WCT Plan. Specifically, we understand that it is intended that, under the Act, a pension plan would be expressly prohibited from discriminating in the provision of benefits on the basis of race, color, religion, sex, or national origin. This would mean, among other things, that a pension plan could no longer apply sex-distinct mortality or disability tables in calculating optional forms of benefits.*/

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*/ In the case of In re the Marriage of Judd, 68 C.A.3d 515 (1977), the court held that the "most effective method" of determining the community interest would be to compute a fraction of the employee's "retirement assets" where the numerator is the length of covered service during the marriage and the denominator is the total length of the covered service of the employee spouse (including service after the marital separation).

We understand the Act to currently provide also that, in order to bring a plan into compliance, benefits that are unequal because of the application of sex-distinct actuarial tables generally would have to be equalized by raising the benefits of the group receiving lower benefits to the higher level of benefits (rather than adjusting the benefits of the group receiving higher benefits to the lower level, or providing some intermediate benefit level). Any benefits payable after the effective date of the Act would be subject to these adjustments, regardless of when the benefits accrued under the plan, and even if benefit payments had already commenced.

A. Detrimental Effect of Retroactive Legislation

The WCT Plan's concerns relate not to the basic policy enunciated in Title III, but to the transitional and remedial requirements which are currently proposed. Specifically, the WCT Plan strongly opposes (1) the retroactive application of the requirements of Title III to benefits already in pay status, and (2) the apparent remedial requirement that, where benefits have accrued under sex-distinct mortality tables, benefits due after the effective date of the Act (including benefits which accrued before the effective date) must be computed under the actuarial table providing the higher benefit.

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*/ As discussed below in B., these provisions are generally duplicative of the requirements of Title VII of the Civil Rights Act of 1964, as recently interpreted in the Norris case, insofar as employer plans are concerned.

The combination of these two features of the Act would have a substantial detrimental effect on the financial condition of the WCT Plan. The WCT Plan's actuary estimates that if the Act were approved in its current form, the unfunded vested benefit liability of the WCT Plan alone would be increased by approximately $78.5 million, or more than 5 percent. In addition, approximately $77 million of the $78.5 million value of additional, unfunded benefits would be payable to male participants and retirees of the Plan.*/

The imposition of these major additional costs could not come at a less propitious time for multiemployer plans. As the Committee is aware, Congress, in the Multiemployer Pension Plan Amendments Act of 1980, established "withdrawal liability" that generally is payable by an employer that withdraws from a multiemployer plan. This liability is generally based upon the unfunded vested benefits under the plan. Also, in response to this recent change in the law, the Financial Accounting Standards Board is currently considering proposals to require an employer that contributes to a multiemployer plan on an ongoing basis to recognize its potential withdrawal liability on its balance sheet.

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*/ With one exception, all benefit forms provided under the WCT Plan apply the same actuarial factors for males and females. The single exception is the joint and survivor annuity form which provides for the payment of benefits to a participant's spouse after the participant dies. The primary benefit under this form (which is the required form under ERISA unless the participant elects another form) is lower for a male participant than for a female participant because it is assumed that, as a group, females are less likely to be survived by their spouses.

By directly increasing the amount of unfunded vested benefits under the WCT Plan and similar plans, the Act would immediately and substantially increase the withdrawal liability of employers that withdraw from the Plan, and might also increase the balance sheet liabilities of contributing employers. This would weaken the financial condition of the Plan, undermine the Plan's efforts to decrease its liability for unfunded vested benefits, and make it more difficult to attract new groups to join the Plan. In this regard, it is estimated that nearly two additional years would be needed to amortize the unfunded liabilities of the WCT Plan if the Act were enacted in its current form. Viewed another way, employers would have to increase their contributions to the Plan by nearly 3 percent if the current benefit levels and projected amortization period were to be preserved. Ironically, the cost of this windfall for one subclass of male participants would ultimately be borne by the rest of the Plan's male participants and by its female participants.

B. Non-retroactivity Is Consistent with the Supreme Court's Recent Decision in Norris

Only two days ago, the U.S. Supreme Court resolved several important issues relating to the legality of sex-distinct actuarial tables in employer pension plans covered by Title VII of the Civil Rights Act of 1964. Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris (No. 82-52, July 6, 1983). The Court generally held, first, that Title VII prohibits an employer from providing different amounts of retirement benefits solely on the basis of the application of sex-distinct actuarial tables. Thus, the basic principle of the proposed nondiscrimination bill simply reflects present law insofar as employer-provided retirement benefits are concerned. Second, the Court held that its landmark decision should apply only on a prospective basis.

We respectfully submit that, in view of the clear policy underlying the Court's prospective decision, it would be inappropriate to enact any legislation which would have the effects that the Court clearly wanted to, and did, avoid. Indeed, such legislation would impose "unanticipated financial burdens" and have "devastating results". Norris, supra (Powell, slip op., pages 12-13). As Justice Powell stated, "[t]here is no justification . . . to impose this magnitude of burden retroactively on the public" (Powell, slip. op., p. 13).

C. Recommendations

Consistent with the decision of the Supreme Court in Norris, the WCT Plan strongly recommends that any further legislation in this area only apply prospectively. Specifically, the Plan urges that any such legislation apply only with respect to benefits accrued after the Act becomes law, or at least only with respect to benefit claims filed after the Act becomes law. In addition, the WCT Plan urges that plans be expressly authorized to calculate all benefits payable to future benefit claimants (including those benefits which accrued before enactment) under "merged" mortality tables that reasonably reflect the actual mortality experience of plan participants and beneficiaries as a group.

In connection with the foregoing recommendations, the WCT Plan also urges that an important clarification be made in ERISA and the Code to facilitate the amendment of pension plans to provide future retirees with equal benefits for all periods of service (and accrued benefits) through the adoption of merged mortality tables. Under current rules, plans would be required to "grandfather" any higher actuarial value of benefits that accrued before any new "merged" table was adopted. In our view, the complex and costly multiple benefit computations that would be required by the current rules would not produce significant additional benefits for many current participants and would only impede efforts to provide future retirees with equal benefit amounts for all accrued benefits.*/

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*/ This point may be explained further as follows. The Internal Revenue Service requires that benefits under a defined benefit pension plan be "definitely determinable" and, in this connection, that (after 1983) plans that provide optional, actuarially equivalent retirement benefit forms state in the plan itself the actuarial assumptions to be used in calculating the optional benefit. Treas. Reg. § 1.401-1(b)(1)(i) (1956); Rev. Rul. 79-90, 1979-1 C.B. 156. In addition, under section 411(d)(6) of the Code, a plan generally may not be amended to decrease the accrued benefit of any participant. Reading these regulatory and statutory requirements together, the IRS has ruled that a plan amendment that changes the actuarial basis for determining benefits may not reduce any participant's accrued benefit as of the date of the change. Rev. Rul. 81-12, 1981-1 C.B. 228.

It is our understanding that this relatively recent IRS requirement was primarily intended to address an area of potential abuse by employer-sponsors of smaller plans. However, that requirement, in combination with Code section 411(d)(6), could also prevent plans from adopting the change we believe should be permissible under the Act. Specifically, if future retirees' benefits are to be determined using "merged" mortality tables (rather than by "topping up" to the benefits provided under the higher sex-based table), we believe that the law also should expressly provide that plan amendments adopting such merged tables will not violate the requirements of Code sections 401(a) and 411(d)(6), and the implementing rulings and regulations thereunder. At a minimum, these regulatory requirements should be made inapplicable to plans that adopt merged tables before the 1984 plan year (the first plan year for which plans are required to set forth the assumptions for actuarial equivalence).

III. Joint & Survivor Annuity Changes (Sec. 4 of S. 19, Sec. 103 of S. 888)

The bills would make a variety of changes in the rules governing joint and survivor annuities. For the reasons given below, the WCT Plan opposes the proposed expanded early survivor annuity requirement, and offers a technical comment on the proposed spousal consent requirement.

A. Expanded Early Survivor Annuity Requirements

The proposed change in this area which is of major concern to the WCT Plan relates to the requirement (contained only in S. 888) that a plan provide for the payment of a survivor annuity benefit on account of the death of any participant who has accumulated 10 years of vesting service, unless the participant specifically rejects that benefit. Under present law, plans are generally required to provide this benefit only with respect to vested participants who reach early retirement (usually age 55, but in any event no earlier than age 55) while still in employment covered by the plan. IRS § 401(a)(11)(C).

In our view, this proposed expansion of the early survivor annuity rules would unnecessarily impose significant additional benefit costs on multiemployer plans, increase the potential liability of employers who withdraw from plans and result in substantially increased administrative burdens and costs. We urge that this proposal be deleted from the bill for the following reasons.

(1) It should be noted at the outset that, even if the bill is clarified to allow plans to "charge" participants for the expanded benefit (if they do not elect out), as a practical matter, most multiemployer plans will have to absorb these additional costs. This is because most multiemployer plans simply are not equipped to communicate to participants the information they need to decide whether or not the spouse benefit should be accepted. We note in this regard that the WCT Plan made an effort to administer the current rules on an elective basis after ERISA's provisions in this area became effective, but the Plan was subsequently amended to provide the early survivor annuity on a mandatory basis, without charge, after 1979.

(2) The actuary for the WCT Plan has estimated that the expanded survivor benefit would represent a current annual cost of $2 million for the WCT Plan. In addition, the total increase in the unfunded vested liability of the Plan may be as great as $65 million or approximately 4 percent of the current unfunded vested liability. Such an increase would have a significant adverse impact on the funding of the WCT Plan. Any such increase would have to be taken into account in determining whether (or to what extent) retirement benefits provided by the WCT Plan may be

increased and in evaluating the adequacy of current employer contribution rates to provide all Plan benefits. While we seriously question the advisability of any further legislation that would impose increased costs on plans, we believe it is particularly important that retirement plan costs not be increased to provide what is, in large part, a benefit that typically will be supplemental to, or in lieu of, group life insurance benefits.

(3) Expanded early survivor annuity benefits will impose an additional layer of administrative burdens on plans with attendant cost increases. For example, because the bill proposes that the survivor benefit not be payable to the spouse prior to early retirement age, plans may have to keep track of the whereabouts of spouses of vested participants who died as many as 25 years before the benefit is payable. Frankly, we suspect that many such surviving spouses will have entirely forgotten that they are even entitled to the benefit (which, of course, would be very small for a spouse of a participant who died at a relatively young age), but plans nevertheless might have an obligation to find them. We recognize that it may be possible to develop solutions to this substantial administrative problem and others (*e.g.*, determining the entitlement of participants who attain 10 years of vesting service solely as a result of one or more years of service with a contributing

employer which are not performed under the collective bargaining agreement). However, we respectfully submit that these major concerns raise serious questions as to the justification for requiring plans to provide the expanded survivor benefit.

B. Proposed Spousal Consent Requirement

Both bills would amend present law to generally require a plan to provide benefits in the form of a joint and survivor annuity to a married participant unless the spouse of the participant consents, in writing, to waive the joint and survivor form. Based on experience, there is little question that situations will regularly arise where, according to the participant, a separated spouse cannot be located when benefits are scheduled to commence and a form of payment must be determined. We are concerned that, in these situations, a participant may be required to accept a reduced primary annuity even though his or her spouse may never claim any survivor annuity payments that subsequently may be payable.

The Committee should consider providing a rule to deal with this situation. One alternative would be to permit payment of a single life annuity where the retiree has provided the plan with an affidavit to the effect that he or she has made all reasonable efforts to locate the spouse, but such efforts have been unsuccessful. Such an approach could be supplemented by a provision to the effect that, in the event the spouse is subsequently located (e.g., because the spouse contacts the plan) while the participant's benefits are still in pay status, future payments shall be suspended until a new election out (jointly signed) is submitted or the time for submitting such election out has expired. Of course, it is essential that, if any alternative along these lines is adopted, it be made clear that plans have no liability with respect to payments made in reliance on the retiree's affidavit that he or she has been unable to locate the spouse or is not married when benefits are scheduled to commence.

IV. Maternity/Paternity Leave -- Special Problems of Multiemployer Plans (Sec. 3 of S. 19, Sec. 108 of S. 888)

Section 3 of S. 19 would require plans to provide up to 501 hours of credit for certain maternity and paternity leave, but solely for purposes of determining whether a break in service has occurred. Section 108 of S. 888 would require that up to 52 weeks of employer-approved maternity leave be credited for participation, vesting and benefit accrual purposes (to the extent of 20 hours per week) as well as for determining whether a break in service has occurred.

These provisions, and the proposed rules in S. 888 in particular, would result in unanticipated increases in plan liabilities. Accordingly, if it is considered appropriate to provide special credits for maternity leave, we recommend that they not apply to a collectively bargained plan until the end of the collective bargaining agreement or agreements that currently provide the basis for employer contributions. This would allow multiemployer plans adequate time to assure that the additional liabilities will be adequately funded. Moreover, it would provide time for plans to develop administrative procedures to account for this new type of service credit.

Multiemployer plans have special problems in obtaining detailed information regarding individual plan participants. Whereas a single employer plan is almost always linked to the employer and generally may be presumed to have access to the employer's records, that assumption generally does not apply to multiemployer plans. It clearly does not apply to the WCT Plan with nearly 15,000 contributing employers spread over 13 states.

There is every reason to expect that the WCT Plan (and other multiemployer plans) would experience tremendous difficulties in determining and crediting (for any purpose) the proper amount of hours under these provisions. In the case of the WCT Plan, tens of thousands of persons leave and enter (or rejoin) the Plan each year. The Plan itself generally has no need to know, and does not know, the particular reason(s) why it may no longer be receiving employer contributions for a particular individual. Moreover, the records of contributions made for a particular individual generally are not kept on the basis of the identity of the individual's employer at any point in time. In the course of a year, one participant may work for several different contributing employers, and the periods of this "covered work" may be separated by months when no employer contributions are received on his or her behalf. Such plans have no way of knowing whether the individual was "absent from work . . . by reason of the birth of a child of the individual, or . . . for purposes of caring for such child", whether such absence was approved by the employer, whether the individual immediately returned to work for the same employer, etc.

In view of the foregoing practical problems, we strongly recommend that any legislation in this area make it clear that the employers contributing to a multiemployer plan are required to notify the plan when any of their employees are or may be entitled to credit for approved maternity or paternity leave and the extent to which such credit should be given.

* * *

We appreciate this opportunity to submit our views to the Committee. Please feel free to contact the undersigned if you have any questions or if we may be of assistance regarding any matter discussed herein.

Respectfully submitted,

Charles a Storke
Charles A. Storke
Pillsbury, Madison & Sutro
225 Bush Street
San Francisco, California
94104

Louis T. Mazawey
Groom & Nordberg Chartered
1775 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Attorneys for
Western Conference of Teamsters Pension Trust Fund

Subject:S. 19. Require the written consent of the non-employee spouse to elect not to have joint and survivor annuity coverage;

S. 888. Require joint and survivor benefits unless both spouses elect otherwise in writing; Require the payment of survivor's benefits to a vested participant's spouse;

Date: June 6, 1983.

629 Chestnut St.,
Cloquet, Minn., 55720
June 6, 1983.

Dear Senate Committee on Finance,

I am writing to urge you to pass both legislative proposals: S. 19 and S. 888 as I know from first-hand experience that women are being adversely affected by the present system.

I recently was awarded a surviving spouse benefit from my husband's pension plan. It took three years and ended in jury trial and jury decision in my favor. My husband had worked for 33 years as a salaried employee -- died at age 61 prior to retirement -- and he had not signed up for the "option" of spouse's benefits.

I am writing because I would not like any more women to suffer the injustice that this type of corporate policy perpetuates. I feel it is imperative that your committee act positively to insure pension rights for both spouses.

I am including copies of relevant correspondence which, if read carefully, will provide understanding of a personal testimony. I apologise that it is not all "double spaced" but since I just today received notice of your hearing and since I am teaching in a high school and we are in the final week of school, I do not have time to comply with all regulations. I do hope you will recognise the sincerity of the message. I feel a victory for having been awarded a favorable verdict. I feel a real let-down when I realize the amount of time and effort expended in the three period plus the fact that one-half of the back pension benefits I received were paid to my lawyer. The is not justice for a surviving spouse.

Sincerely yours,

Phyllis Hudler

TO:

Elizabeth A. Storaasli
Attorney at Law
720 First Federal Savings Bldg.
Duluth, Minnesota 55802

Lee T.Peterson
Attorney at Law
665 North Snelling Avenue
St. Paul, Minnesota 55104

STATE OF MINNESOTA
COUNTY OF Carlton

CLERK'S NOTICE OF FILING OR ENTRY OF DECISION, JUDGMENT, OR ORDER

Case Number: C-81-1131

Ticket Number:

IN RE: Phyllis A. Hudler vs. First Trust Company of St. Paul, et al

You are hereby notified that, in the above-entitled matter, a ☐ Decision ☐ Judgment ☒ Order was duly ☒ filed ☐ entered on November 10, 1982.

(COPY OF THE ORDER HEREWITH ENCLOSED)

Frank Yetka
Attorney at Law
123 Avenue C
Cloquet, Minnesota 55720

By Peggy Schultz
Assistant Clerk of Courts

Dated: Nov. 10, 1982

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF CARLTON SIXTH JUDICIAL DISTRICT

Phyllis A. Hudler,
Plaintiff,

vs.

First Trust Company of Saint Paul,
Trustee of the Retirement Plan for
Salaried Employees of Conwed Corp.
and Conwed Corporation,
Defendants.

No. C-82-1131

ORDER

FILED
NOV 10 1982
[illegible]

The above-entitled matter came before the court for the purposes of trial on the 1st day of November, 1982. Plaintiff appeared by and through her attorney, Elizabeth Storaasli; Defendant First Trust Company of Saint Paul, Trustee of the Retirement Plan for Salaried Employees of Conwed Corp. appeared by and through its attorney, Frank Yetka, and Defendant Conwed Corporation appeared by and through its attorney, Lee Peterson. Trial was held and on the 3rd day of November, 1982, the jury returned a verdict. Further, the Defendants and Plaintiff had stipulated as to the ultimate damages, should the jury return a verdict in favor of the Plaintiff herein. Therefore, pursuant to said verdict and stipulation, the Court does now make the following Order:

IT IS ORDERED that Plaintiff Phyllis A. Hudler be and hereby is awarded a monthly retirement pension in the amount of retroactive to December 28, 1979. Said pension shall continue for the rest of her natural life.

IT IS FURTHER ORDERED that said judgment be stayed for a period of thirty (30) days from the issuance of this Order.

Dated at Duluth, Minnesota this 9th day of November, 1982.

BY THE COURT:

Judge of District Court

BRUESS, BYE, BOYD, ANDRESEN & SULLIVAN
ATTORNEYS AT LAW
720 FIRST FEDERAL SAVINGS BUILDING
DULUTH, MINNESOTA 55802

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CHARLES A. GROMBACHER
ELIZABETH A. STORAASLI

PAUL R. HAMMERSTON
COUNSEL

TELEPHONE
218/727-8461

April 20, 1981

Retirement Committee
Conwed Salaried Employees'
Retirement Plan
Conwed Corporation
332 Minnesota Street
P.O. Box 43237
St. Paul, Minnesota 55164

Re: Charles Hudler
D/O/B: 10-20-18
D/O/D: 12-28-79

Dear Ladies and Gentlemen:

This office has been retained to represent Phyllis Hudler, the widow of Charles Hudler who was an employee of Conwed Corporation for 32 years prior to his death on December 28, 1979.

Mrs. Hudler has inquiredof Conwed Salaried Employees' Retirement Plan whether she is entitled to any benefits, and has been advised that despite Mr. Hudler's employment for 32 years, she is entitled to no Pension Benefits.

We have reviewed the matter, and by this letter we are presenting to the Retirement Committee a written claim for benefits under the plan.

In this letter I will attempt to outline the basis of the claim.

1. The Employee Retirement Income Security Act of 1974 (ERISA) requires Pension Plans which pay benefits in the form of an annuity to provide for a joint and survivor option. If the plan provides for the payments of benefits before the normal retirement age, any participant may elect that such benefits be payable as an early survivor annuity upon his death in the event that he -

    a) attains the qualified early retirement age, and

    b) dies on or before the day normal retirement age is attained while employed by an employer maintaining the plan. (Treasury Regulation §1.401 (a)-11(a)(1)(iii).

The Retirement Plan for Salary Employees of Conwed Corporation clearly provided in Section 3.2 and Section 4.3 for payment of benefits before the normal retirement age. Mr. Hudler had reached the age of early retirement and died before his normal retirement date. Consequently, the election should have been made available to Mr. Hudler. Failure to do is a violation of law entitling Mrs. Hudler to full benefits.

2. Treasury Regulations specifically outline the procedure required for the election of an early survivor annuity. Basically, the plan must provide to the participants the following information in written non-technical language:

   a) A general description of the early survivor annuity, the circumstances under which it will be paid if elected, and the availability of such election; and

   no explanation of reduction in easily understood terms →

   b) A general explanation of the relative financial effect on a participant's annuity of the election, and

   c) The notice and explanation must also inform the participants of the availability of specific additional information and how it may be obtained. (Treasury Regulation §1.401 (a) (c)(3).

Treasury Regulations also govern the method used to provide the information and require that it must either be mailed, personal delivery, or a method which is reasonably calculated to reach the attention of a participant and specifically suggests permanent posting or repeated publication.

3. In previous correspondence with Mr. Olson, Mrs. Hudler has been advised that on or about January 3, 1977, an Interoffice Memorandum was directed to all Salaried Employees regarding optional retirement benefits. There has been no proof of any kind that Mr. Hudler in fact ever received a copy of the memorandum, and based upon Treasury Regulation 1.401(a)-11(c)(3)(ii), since the Interoffice Memorandum was not mailed or apparently not personally delivered, there is a serious question whether it was sufficient notice. There is no evidence of permanent posting of the memorandum, or publication of it as suggested by the regulations. It is quite likely that Mr. Hudler received a substantial number of memorandums via interoffice correspondence, and there is not any indication that the seriousness of this particular memorandum was brought to his attention.

Edward Blake
DFT Retirement
manager took
1 hour to read
& decipher

4. Even if he did receive a copy of the memorandum, the Treasury Regulations provide that it include certain specific written information in non-technical language. The memorandum itself appears to be confusing both in organization and content. It does not, in discussing a pre-retirement option, describe the circumstances under which it will be paid. It also does not specifically describe in the pre-retirement option section the availability of the election. Page three is also very confusing in that the last paragraph implies no action need be taken now, and could easily be construed to refer to the pre-retirement option election. Page four includes references to the pre-retirement option under the early retirement paragraph. The paragraph states that if you are planning an early retirement "you will automatically receive the 50% joint and survivor benefit unless you reject it in writing and select one of the other options." Later on the memorandum includes the following critical sentence:

Real POINT #

> "If you are not electing the pre-retirement joint and survivor option at this time, please sign one copy of the attached waiver and return to me."

Firstly, this does appear to refer to the earlier mentioned early retirement benefit which is an automatic joint benefit. Lay persons could easily confuse the word "early retirement", with "pre-retirement". An individual could easily construe that sentence to provide that an automatic early retirement joint benefit is in effect unless the waiver is returned.

However, even if the reader would understand that the option was a pre-retirement option, as written, the sentence provides that the option is in effect unless waived by signing the form. It is undisputed that Mr. Hudler never signed and returned the waiver form. Therefore, according to this interoffice memorandum, he could conclude that the pre-retirement joint and survivor option was in effect.

5. The memorandum in no way makes clear that failure to exercise the pre-retirement option means the entire loss of all pension benefits in the case of death before retirement. ERISA requires that participants must be advised about circumstances under which they will lose benefits.

If the pre-retirement seminar slides covered this point clearly - exactly how many people in attendance didn't sign it and how many people should have attended who did not..

6. The retirement plan for salary employees at Conwed provides in Section 4.3.2 that the participant makes "his election to provide a survivor annuity or revoke, amend or reinstate an election previously made, in writing upon forms to be furnished by the retirement committee . . ." It also provides that "prior to making any such election the participant shall receive a written notice of his right to make the election and, if he requests, an explanation of the terms, conditions and effects of the election." This section on its face appears to contradict Treasury Regulations since it provides that the participant must request the explanation rather than placing the burden upon the plan to provide it as is required by the Treasury Regulations. However, in this case Mr. Olson did not even comply with this plan requirement since the forms to make the election, revoke the election, amend the election or reinstate the election, were not furnished by the Retirement Committee. The only form allegedly furnished was the waiver form which has questionable validity.

Important

In conclusion, we make demand for lump sum spouse survivor's benefits under the pre-retirement option based upon Mr. Hudler's accrued monthly benefit at date of death of $645.57. We also demand monthly payments commencing immediately for the balance of Mrs. Hudler's life.

Yours truly,

BRUESS, BYE, BOYD, ANDRESEN & SULLIVAN

Elizabeth A. Storaasli

Elizabeth A. Storaasli

EAS:sln
cc: Phyllis Hudler

CLIENT INFORMATION COPY

CONWED

444 Cedar Street
P.O. Box 43237
St. Paul, MN 55164
Phone (612) 221-1100

REGISTERED MAIL - RETURN RECEIPT REQUESTED

May 18, 1981

Ms. Elizabeth A. Storaasli
Bruess, Bye, Boyd, Andersen & Sullivan
720 First Federal Savings Building
Duluth, MN 55802

Re: Charles Hudler
D/O/B: 10-20-18
D/O/D: 12-28-79

Dear Ms. Storaasli:

We have reviewed the comments of your letter of April 20, 1981. In response to the issues raised by your letter, we offer the following which bear the same numbers as the points raised in your letter.

How do you know?

1. Our review of the question you raise with respect to whether the opportunity to elect the benefits of Section 3.2 and Section 4.3 of the Retirement Plan for Salaried Employees of Conwed Corporation was made available to Mr. Hudler indicates that this was done.

   We believe that the method of communication to Mr. Hudler was reasonably calculated to reach him.

Interoffice

General

2. Communication of the "early survivor annuity" election was effected by letter from W. E. Olson sent to Mr. Hudler on January 3, 1977. A general announcement to all salaried employees relating to the matter raised in your numbered paragraph 2 was distributed to all salaried employees November 23, 1976.

   The letter sent January 3, 1977, to Mr. Hudler contains an explanation of the financial effect of the election on a participant's benefit.

   Similarly, it is our view that the letter (a copy of which is enclosed) informs a participant of the availability of additional information and how it may be obtained.

~~[illegible]~~ How many people requested additional info.?

How many widows have actually collected when death occurs prior to retirement?

3. As indicated in numbered paragraph 2, we believe the letter sent to Mr. Hudler January 3, 1977, was reasonably calculated to reach Mr. Hudler.

4. We believe the letter sent to Mr. Hudler explains all options available to him with respect to benefits under the Plan, the difference between pre- and post-retirement options, and the action necessary to elect the option(s).

   Page 3 of the letter specifies that if the employee wishes a survivor benefit paid upon death before retirement, it can be done by electing the option.

   The statement that no action need be taken appears under the section entitled "NORMAL RETIREMENT."

   We do not see any support in the letter to conclude that the option is automatic. The waiver form itself reiterates that it is elected.

5. Mr. and Mrs. Hudler attended retirement planning seminars conducted by the company. These seminars contain slides which relate to the option, and slide #58 explains that the post-retirement option does not pay a benefit if death occurs before retirement. The retirement plan booklet also covers the subject as well.

6. We do not agree that Section 4.3.2 contradicts Treasury regulations or that Mr. Olson cannot provide the forms required.

In addition, Mrs. Hudler received the full group life insurance benefit of $35,000 since Mr. Hudler was an employee on the date of his death.

The benefit of $645.57 per month is the straight life benefit at age 65 and not the survivor benefit which Mrs. Hudler would have received had the pre-retirement option been in effect on the day Mr. Hudler died.

In view of the above explanation, we must respectfully deny your client's claim for benefits. Section 12.3 "Claims Procedure" of the Plan sets forth the procedure which may be followed by a claimant in the event a claim is denied. A copy of this section has been enclosed.

Sincerely,

D E Hinton

D. E. Hinton
Retirement Committee

DEH/ms

Enclosures

ACTING CHAIRWOMAN
CLARA DAY

VICE-CHAIRWOMAN
SISTER CANDIDA LUND

SECRETARY-TREASURER
BEATRICE RIECKHOFF

EXECUTIVE DIRECTOR
JUDITH KOHLER

EXECUTIVE SECRETARY
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ILLINOIS COMMISSION ON THE STATUS OF WOMEN

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PHYLLIS SCHLAFLY
PAT TROWBRIDGE
CLAUDIA YOUNG

June 6, 1983

Honorable Robert Dole, Chairman
Senate Finance Committee
Room SD-221, Dirksen Office Building
Washington, DC 20510

Dear Senator Dole:

The Senate Finance Committee is considering two important pieces of legislation that will greatly increase women's access to pensions. S. 19 and S. 888 will recognize the contributions of thousands of homemakers now forgotten in private pension law and will acknowledge some of the problems faced by divorced women who expect to share in the pensions they helped their husbands earn.

The Midlife and Older Women Committee of the Illinois Commission on the Status of Women has been studying women and pensions for several years. As a result of this work, the Commission has adopted recommendations in support of the kind of changes proposed in S. 19 and S. 888. We are submitting our position paper on women and pensions for inclusion in the printed record of the Senate Finance Committee hearings scheduled for June 20 and June 21.

We congratulate the Senate Finance Committee for devoting two days of hearings to women's pension issues, and we urge swift and favorable action on S. 19 and S. 888.

Sincerely,

Barbara Flynn Currie
Representative Barbara Flynn Currie, Chairwoman
Illinois Commission on the Status of Women

Beatrice K. Rieckhoff
Commissioner Beatrice K. Rieckhoff, Chairwoman
Midlife and Older Women Committee

dw

STATEMENT OF EVELYN DUBROW
VICE PRESIDENT AND LEGISLATIVE DIRECTOR
INTERNATIONAL LADIES' GARMENT WORKERS' UNION
on S. 888, the Economic Equity Act
Senate Finance Committee
July 5, 1983

On behalf of the International Ladies' Garment Workers' Union, I am pleased to express our support for S. 888, the Economic Equity Act, as an important step in the effort to eliminate many of the economic inequities faced by women in the United States.

The ILGWU is a union of 283,000 members, of whom 80% are women. Many of our members are Black, Hispanic, Asian and members of other minorities and many are heads of their households. Therefore, we have always been especially concerned with ensuring that women are not subject to discrimination of any type. The Economic Equity Act is an extremely important effort to recognize the contributions that women make to the nation's economy and remedy some of the inequities that women face under current laws.

We are pleased that so many Senators and Representatives have decided to show their concern for women's rights by co-sponsoring S. 888 and H.R. 2090, and hope that they will vigorously support enactment of this legislation during the 98th Congress. The ILGWU will be working on the various components of the Economic Equity Act and making suggestions where appropriate about how the different pieces of the bill might be improved. This statement will concentrate on some of the sections of the legislation which are particularly relevant to ILGWU members.

One of the important areas addressed by the Economic Equity Act is pension reform. We recognize that improvements must be made in this area and will be closely examining the proposals in order to provide as much assistance as possible in making pension laws more responsive to the needs of working women and spouses of male workers.

Another area addressed by this legislation which is of extreme importance to the members of the ILGWU is dependent care. Especially in difficult economic times, working parents need to make sure that their dependents are well-cared for at the most reasonable fees possible. Access to decent child care can be the determining factor in whether or not a parent is able to work at all in order to contribute to the financial needs of his or her family.

In 1981, the Congress recognized the need to give low-income households a higher tax credit for child care expenses than families who could afford to pay a higher percentage of their income for dependent care expenses and passed legislation to allow families with incomes of $10,000 or less to take a 30% tax credit, which would gradually decrease to 20% for families with incomes greater than $28,000 per year.

The Economic Equity Act would raise the allowable credit to 50% for those families earning less than $10,000, decreasing to 20% for families earning over $40,000. It would also make the tax credit refundable so that those people most in need of financial assistance would be able to take advantage of the dependent care credit even if their tax liability is quite small. These provisions would allow low-income workers, such as the workers in the apparel industry, to receive a needed benefit from our tax system.

Another feature of the dependent care proposal which we applaud is the provision of "seed money" through federal grants to community-based clearinghouses for child care information and referral. Our union has consistently been in favor of comprehensive national child care legislation so that working parents can be reassured about the availability and quality of dependent care. These grants can be used to help provide the information needed by parents in order to make their child care choices with greater peace of mind.

We also support the provision for increased enforcement for ensuring that child support payments are made to parents responsible for raising children alone in difficult economic times.

The ILGWU strongly supports the non-discrimination in insurance provisions of the Economic Equity Act. I recently testified before the Senate Commerce Subcommittee on Surface Transportation in favor of S. 372. Laws have been enacted to make discrimination solely on the basis of sex, religion, race, color or national origin illegal in such areas as employment, housing and consumer credit, and we see no reason why such discrimination should be allowed to continue in the insurance industry.

The ILGWU commends the Senate Finance Committee for setting aside time to consider remedies for the various forms of discrimination faced by women in this country, such as those included in the Economic Equity Act.

We intend to extend even more intensively our efforts to pass the Equal Rights Amendment so that any legal form of discrimination against women will be prohibited by the Constitution of the United States.

As the various components of the Economic Equity Act are considered individually, the ILGWU expects to make recommendations we believe will make the entire Act more acceptable to our organization and other groups with which we are identified.

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ATTORNEYS AND COUNSELORS
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MICHIGAN NATIONAL TOWER
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KATHLEEN OPPERWALL

AREA CODE
517
372-0930

May 12, 1983

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD-221
Dirkson Senate Office Bldg.
Washington, D.C. 20510

RE: Hearings on S19, The Retirement Equity Act of 1983, and S888, the Economic Equity Act of 1983

Dear Sir:

I strongly urge that any provisions of these bills which require amendment of existing retirement plans be eliminated, and that no such provisions be enacted until the IRS has completed regulations on existing changes.

Tinkering with the pension law every year and requiring amendments which then also require applications to the Internal Revenue Service for new determination letters, is a costly business, especially for small employers.

Yours very truly

John N. Seaman

John N. Seaman

JNS:dag
cc: Mr. Stephen I. Jurmu
Mr. Lawrence R. VanTil

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May 25, 1983

Roderick A. DeArment
Chief Counsel Committee on Finance
Room SD221
Dirksen Senate Office Building
Washington, DC 20510

Re: Senate Bill 19 -- the Retirement Equity Bill of 1983
Senate Bill 888 -- the Economic Equity Bill of 1983

Dear Mr. DeArment:

The purpose of this letter is to submit a written comment regarding a particular provision of Senate Bills 19 and 888. I am an attorney in private practice in Salt Lake City, Utah, and a substantial portion of my practice is involved with qualified pension and profit sharing plans for small employers. I am chairman of the Program Committee of the Mountain States Pension Conference, a group comprised of attorneys, accountants, trust officers, plan administrators and others involved in the pension industry. I am also an officer of the Tax Section of the Utah State Bar Association. My activities with the Mountain States Pension Conference and Tax Section of the Bar give me frequent opportunity to discuss pension-related matters with other individuals.

Both Senate Bill 19 and Senate Bill 888 would lower the age at which an employee's services must be taken into account for purposes of participation in a qualified pension or profit sharing plan from age 25 to 21. I feel that this provision would serve no useful purpose and would not strengthen in any way the private pension system of the United States or in any way make qualified pension or profit sharing plans more "equitable". Based upon my experience and that of numerous other attorneys, accountants, plan administrators and others involved in the pension area with whom I have discussed this topic, individuals in the 21 to 25 year age group are not concerned about pensions. Typically, individuals in this age group are highly mobile, are struggling financially to make ends meet and often include women who do not intend to remain in the work force but are working simply to allow their husband to finish school or to supplement their husband's income. On separation from service, whether the individual is withdrawing from the work force completely or is simply changing jobs, the money is used to purchase a new car, make payments on a home or is otherwise spent. The account balance not rolled over to an individual retirement account, other qualified plan or otherwise retained in the private pension system.

If an individual retires at age 65, commencing participation in a retirement plan at the current age 25 allows a minimum of 40 years in which to build a retirement fund, which ought to be plenty of time.

Recent legislation has supposedly placed the social security system on sound footing. The impact of this legislation on the small employer is that social security taxes of 14.3 percent (the combined employer-employee rate for corporations or the individual rate for an unincorporated business) on a taxable wage base estimated to be $42,600 for 1987 will place a tremendous financial burden on employers. The passage of TEFRA in 1983 will also place a heavy financial burden on small employuers because of the impact of the top-heavy and super top-heavy rules. Lowering the age for participation in a qualified plan from age 25 to age 21 will only increase that economic burden without providing any benefit to the private pension system.

Reacting to the titles of the two bills and their concern for potential inequities under federal pension, tax and other laws affecting working and non-working women, I would like to suggest that non-working individuals be allowed to establish their own individual retirement accounts with the same contribution limits as those provided for working individuals. The cost of sustaining a retired couple where one spouse did not work is not less than the cost of sustaining a retired couple where both spouses earned income. If the private pension system is to be equitable, it ought to permit the accumulation of retirement benefits for both working and non-working spouses.

I appreciate your consideration of these comments.

Very truly yours,

McMURRAY & McINTOSH

David O. Parkinson
David O. Parkinson

DOP/ddd

Women and Pensions

Submitted by: Beatrice K. Rieckhoff, Chairwoman
Midlife and Older Women Committee
Illinois Commission on the Status of Women

Undoubtedly, the most important issue for all older persons is economic security; however, financial crisis strikes more older women than men. Many women depend on their husbands' income both during his wage-earning years and at retirement. Because women, on the average, live longer than men, most can expect to lose this source of income at some time. The situation is not much better for women who have worked because low wages and interrupted work histories effectively bar them from adequate retirement income plans. For these reasons, 85% of all single persons over age 65 living below the poverty line are women.

The Midlife and Older Women Committee of the Illinois Commission on the Status of Women sponsored a public hearing on women and pensions in Chicago in October 1981. At the hearing, the Committee heard from women who had been thrust into economic crisis by divorce or death of a spouse. These women had worked beside their husbands most of their adult lives, supporting his career, making a home, raising the children. One, the mother of six, was divorced at age 53. In the settlement, she received the house (with a mortgage to 1999), furniture and custody of two teenagers still at home. Her ex-husband still has his job and earning potential and accumulated pension benefits that will yield $30,000 annually at retirement. She has only been able to find a part-time job at minimum wage and will be unable to build an adequate retirement income of her own. Another was a widow who was 12 years younger than her retired husband when he died. Her survivor's benefit was actuarially reduced so that she received only 10% of her husband's pension, $117 a month. She had no pension benefits of her own; she had stayed home to raise seven children.

Nationally, as well as in Illinois, women are less likely than men to have adequate retirement income protection. The President's Commission on Pension Policy reported that 49% of men have private pension coverage compared with 21% of women, and 35% of men and 13% of women actually receive any benefits. While most women receive no pension benefits other than Social Security, the ones who do receive them earnfar lower benefits than men. The median income from public pensions, other than Social Security, is $4,990 for couples, $4,250 for single men and $2,660 for single women. The median income from private pensions is even lower: $2,150 for couples, $1,830 for single men and $1350 for single women.

Public and private pension systems as currently constructed do not fit the reality of women's lives. Family locatioh is often determined by the husband's career. When the husband is transferred by his company, his pension will follow him; the wife will probably leave her job and benefits behind. Women also have interrupted work histories because they frequently take time off for child rearing. These breaks in service may cause a loss of accrued benefits. Many pension plans require the employee to be 25 years old before plan participation begins. Labor force participation for women is highest between the ages of 18 and 24 (74%) and these years may be totally worthless in terms of accumulating pension benefits. Women are more likely than men to work part time, either because they are integrating work with family responsibilities or, as is the case with midlife women, they have difficulty in finding full-time work. Part-time work seldom has pension benefits and, if it does, the low earnings still yield low benefits.

Even if the pattern of women's lives did not keep them from adequate pension protection, the wage gap and occupational segregation would still conspire to keep them poor. Women continue to earn less than 60% of what men earn for full-time, year-round work, and women remain clustered in clerical, sales or service occupations which offer few fringe benefits, low wages and little chance of advancement.

Private pension plans are regulated by the Federal Employee Retirement Income Security Act of 1974 (ERISA). ERISA sets standards that private pension plans must meet but does not require employers to provide pension plans. ERISA requires that plans cover all eligible employees age 25 or over, with one year of service, if they work more than 1,000 hours per year. Employees can acquire vested benefits fully after ten years or gradually with full vesting after 15 years. All years of service from age 22 must be counted toward vesting, but earlier years may be disregarded. ERISA provides that years of service before a break in service may be disregarded and all benefits forfeited, if not vested, if the break in service equals or exceeds the number of years of service prior to the break. For example, a woman may be employed by a company from age 19 to age 24 and then take six years off until her child starts school. When she returns, she will have forfeited her five years of prior service.

Many women depend on receiving annuities based on their husbands' employment record. Under ERISA, plans which provide annuities must provide a joint and survivor annuity at retirement age unless the participant elects in writing not to take the survivor's benefit. Under the joint and survivor option, the employee has his/her pension benefit reduced in order to provide the surviving spouse with benefits. The choice of the survivor option is soley the employee's and many widows are surprised to find that their husbands did not provide this coverage.

There are other ways a spouse may lose a survivor's benefit. ERISA allows plans to require the participant to be married one year before the retiree's death to collect the survivor's benefit; this eliminates divorced spouses. A spouse can also lose a survivor's benefit if the employee dies before early retirement age or if the employee dies within two years of electing an early survivor annuity.

Congress is addressing some of these issues through the Economic Equity Act which was endorsed by the Illinois Commission on the Status of Women in 1981. The pension reforms of the Equity Act would: 1) require a statement waiving survivor benefits to carry the notarized signature of both spouses; 2) require pension plans to provide benefits for the surviving spouse even if the employee has chosen the survivor benefit within the past two years; 3) allow a spouse to collect survivor benefits if the employee was vested, even if the employee dies before age 55; 4) provide that pensions may become a property right in divorce cases; 5) lower the minimum age for participation from 25 to 21. Swift action by Congress on these provisions would greatly increase access for women to private pension benefits.

In addition to the above recommendations, the Commission on the Status of Women also supports more balanced representation on pension governing boards so that they more accurately reflect the population they serve, including a proportionate number of men and women and representation of retirees and their survivors.

The Individual Retirement Accounts have given more women and men a way to plan for their own income security. The Midlife and Older Women Committee studied IRAs last year and recommended that Congress pass legislation which would permit the same contribution allowance on joint and spousal IRAs as allowed to two-wage-earner couples. Currently, a wage earner and non-working spouse can only set aside $2250 of earned income, tax free, compared to $4000 for two-earner couples. Retirement income security is necessary for all whether they spend their adult lives as homemakers or in the paid work force.

It is to society's benefit to encourage people to plan for their own retirement and to require plans to be adaptable to the real needs of workers. The reforms recommended by the Commission on the Status of Women for ERISA plans and for IRAs are designed to increase access for women to pensions and to decrease their reliance on the social welfare system so that they may spend their retirement years with the security and dignity they deserve.

Mexican American
Legal Defense
and Educational Fund

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MALDEF

July 6, 1983

Mr. Roderick A. DeArment,
Chief Counsel
Committee on Finance
Dirksen Senate Office Building, Room SD-221
Washington, D.C. 20510

Re: Senate Bill 888-Economic Equity Act

Dear Mr. DeArment:

This statement is submitted by the Mexican American Legal Defense and Educational Fund (MALDEF) in support of S.888, The Economic Equity Act of 1983, introduced by Senator Durenberger in March of this year. The bill addresses economic equity for women in the areas of tax and retirement, dependent care, child support enforcement and insurance.

The Senate Committee on Finance held hearings on this legislation on June 20-21, 1983. We were unable to present oral testimony. However, we are submitting this written statement for inclusion in the record of the hearing as provided for in your press release of April 29, 1983.

I. The Mexican American Legal Defense & Educational Fund

MALDEF welcomes the opportunity to provide support for the Economic Equity Act. MALDEF is a national civil rights

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organization which uses litigation, community education and research to gain equality for this nation's nearly 15 million Hispanics. Currently, we have offices in San Francisco, Los Angeles, Denver, San Antonio, Chicago and Washington, D.C. MALDEF's Chicana Rights Project focuses on legal issues impacting low-income Hispanic women in this country. This project has worked to secure basic health services and employment opportunities for Hispanic women.

We believe that the Economic Equity Act, particularly the provisions relating to dependent care, child support enforcement and heads of household tax reform will help improve the economic status of low imcome Hispanic women in this country.

II. Hispanic Women's Poverty

Statistics clearly show that Hispanic and other minority women experience high levels of poverty. In 1980, about one-half of all families in this country living below the poverty level were maintained by women with no husband present. The poverty rate for these families headed by women was 32.7% compared to 6.2% for married-couple families and 11% for families headed by men. In 1980, 27.1% of families headed by Anglo females were living below the poverty level as compared to a poverty rate of 53.1% for families headed by Black females and a poverty rate of 52.5% for families headed by Hispanic females.

If we look at earnings for full-time workers in this country we will understand why Hispanic and other minority women experience such poverty. Close to 50% of all fully employed Hispanic women in 1980 for example, earned between $4,000 and $9,000. Close to 40% of Black women and 34.7% of Anglo women were in this income category as well. Hispanic women had the lowest income of any racial-ethnic group in 1980. Their income was half of white males ($9,679 compared to $19,157).

Minority women's earnings are very low largely because these women are concentrated in low- paying, dead-end jobs. In a 1982 report, for example, the U.S. Commission on Civil Rights found that 21.6% of Black, 18.5% of Hispanic and 13.9% of Anglo women were employed in low paying jobs requiring less than three (3) months of training. Of all Anglo males, only 5.3% were working in these types of jobs.

While all women in this country are concentrated in female occupations, which are low paying occupations, minority women are even more concentrated in these occupations. For example, in 1980, 22% of working Hispanic women were employed as operatives such as packers, sewers and textile workers. This rate compares to 9.7% of Anglo and 11.3% of Black women working as operatives in that year.

The responsibility that minority women have for childrearing is another cause of their poverty. Because women have to care for their children, they often have to interrupt their careers, may be unable to get training for careers, or can only work part-time. This becomes a significant barrier to better paying jobs. Only with adequate and affordable child care can minority women participate meaningfully in the labor market. Hispanic women have an even greater need for child care because of higher birth rates.

Minority women are participating in the labor force at rates nearly equal to Anglo women. They enter the labor force out of necessity. Their earnings are critical to the survivial of their families. Yet, they enter the labor force facing two major barriers-- limited employment opportunity and child care expenses.

III. The Economic Equity Act

S.888 contains several provisions which can help alleviate the poverty Hispanic women and other women face today. MALDEF supports the act in its entirety. However, there are specific provisions in the Act that will directly benefit low income Hispanic women. These include:

1) Increasing the zero bracket amount for single heads of households by allowing them to use the $3,400 amount available to married persons in computing federal income tax.

This provision would recognize that single heads of household have the full responsibility for maintaining their families.

2) Sliding scale for dependent care tax credits.

The 1981 Tax Act established a sliding scale for tax credits for dependent care expenses from 20 to 30 percent of work--related expenses. This section would expand that scale by raising the allowable credit percentage to a scale beginning at 50% for those earning $10,000 or less, and decreasing to 20% for those earning $40,000.

This provision addresses the question of affordability of child care by providing tax relief for expenses. It would recognize that those who earn less need more help and therefore should get more tax relief.

Since in 1980, close to 50% of fully employed Hispanic women in this country earned less than $10,000, many Hispanic women would be able to qualify for the maximum credit amount.

3) Refundability of dependent care credit.

This provision allows the dependent care tax credit to be refundable. People who owe no federal income tax would receive as a refund the amount of credit to which they would be entitled.

Significant numbers of Hispanic women would qualify for a refund because of their low earnings. In 1981, the median earnings for Hispanic females was $5,060. This provision recognizes that a credit doesn't help someone who owes no tax and further that child care is a real barrier to full employment.

4) Information and referral on dependent care services.

This provision would establish a federal grant program to provide seed money to community based clearinghouses for child care information and referral.

This grant program is important for low imcome women who may have difficulty finding child care on their own. We would recommend that Congress consider amending this provision to require that bilingual information be made available to language minorities being serviced by recipients of these grants.

5) Child support enforcement

Title V of the Act provides for mandatory wage assignment of federal civilian employees' wages when child support is ordered. It also clarifies that Title IV-D, Social Security Act programs should secure child support in non-AFDC cases as well as in AFDC cases. This section would also allow states to withhold federal income tax refunds from absent parents who owe past-due child support. Currently, states can only use this procedure for absent parents of AFDC children.

These provisions recognize that both parents are responsible for the costs of childrearing. Two-thirds of all child support orders nationally are not complied with. Nationally, there are currently 8.5 million women and 10 million children affected by non-support. Statistics show that 80% of parents (mostly men) who don't pay child support can in fact afford to pay. Also, most child support awards do not even begin to reflect the actual costs of childrearing.

These provisions also recognize that non-AFDC children are entitled to protections as well. These children depend solely on their parents for their support.

IV. Conclusion

MALDEF believes that the Economic Equity Act will directly and beneficially impact the economic lives of Hispanic women in this country. For this reason, we support its enactment.

Respectfully submitted,

Antonia Hernandez

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WRITTEN STATEMENT

Submitted to: Senate Finance Committee

Hearing Date: June 20 and 21, 1983

Hearing Subject: S.888, The Economic Equity Act of 1983

Submitted on behalf of: State of Minnesota-Office of Child Support Enforcement

Minnesota Family Support and Recovery Council

Minnesota County Attorneys Association

Hennepin County Attorneys Office

Mr.Chairman, Members of the Committee: This written statement is submitted to the Committee by the State of Minnesota-Office of Child Support Enforcement, The Minnesota County Attorneys Association, and Family Support and Recovery Council, and the Hennepin County Attorneys Office, all of which are united and firm in their support of the Title V-Child Support Enforcement provisions of the Economic Equity Act of 1983, S.888.

We give you two reasons to support the child support enforcement provisions of this bill. One reason is the outrage over the irresponsibility of large numbers of parents in not contributing to the support of their children. The second reason is the need to control welfare costs in this nation.

One of every eight families in the State of Minnesota is headed by a single female parent. One third of the children in these families under eighteen years of age is living in poverty. Most fathers are not paying adequate support, if they are paying at all. In fact, in over 50% of public assistance cases in Minnesota, the absent parent is both employed and paying no child support.

A humane society provides for its children. Our society does this by providing the AFDC program for families who cannot meet their own needs. A just society insists that the absent parent face his responsibilities for his family. The Economic Equity Act speaks to that concern. This was the rationale behind the recent Minnesota legislation to strengthen child support enforcement, and is the rationale behind our strong support of the Title V-Child Support Enforcement provisions of S.888.

Child support collections in the State of Minnesota have increased from 14.1 million dollars in 1977 to over 43 million dollars in 1982. Clearly this is a dramatic increase. Minnesota's successful collections program can be attributed largely to its progressive legislation.

Minnesota has had a state tax refund interception program in operation for three years. This program has allowed the child support agencies to intercept the state income and/or property tax refunds of any person whose family is on welfare and who has become delinquent in their support payments. This has saved Minnesota taxpayers nearly 3 million dollars in 1982 and collections of more than 3 million are expected in 1983. The intercept program has been so successful that in 1982 the program was expanded to include delinquent support owed to families not on welfare.

Minnesota has had wage withholding for child support since 1971. Recent amendments have broadened the definition of income subject to withholding for child support and maintenance, and mandated that every support or maintenance order provide that the support be withheld from the obligor's income if the obligor defaults in payment. These amendments have provided the child support agencies with a most effective and expeditious enforcement tool.

Minnesota's experience with tax refund intercept and income withholding has provided a model for the comparable components proposed by the Economic Equity Act.

The Omnibus Child Support Enforcement Bill passed in Minnesota's 1983 legislative session makes a strong statement on public policy and the rights of children to be supported by their natural parents. That Omnibus bill requires that the courts apply uniform guidelines in establishing the level of the child support obligation; further that support orders must be adjusted periodically by the increase in the cost of living. Thus, a child will be guaranteed a consistent and fair standard of support. Further, the Minnesota legislature has provided the child support agency with additional remedies for the collection of support arrearages. Accrued arrearages will operate as a lien on the obligor's real property. In addition, the court may order that payments on arrearages be withheld from the obligor's income and submitted to the child support agency.

The importance of statutory mandates such as these has been recognized in the Economic Equity Act. State judicial bodies must be convinced that child support enforcement is essential. The public must be convinced that absent parents have a responsibility to contribute to the cost of raising their own children. Clearly the Title IV-D program provides an alternative to public assistance.

The Title IV-D program provides child support collection services to both public assistance recipients and those custodial parents not receiving public assistance. In Minnesota 37% of all child support collected through the Title IV-D program goes directly to custodial parents to aid in supporting children.

The non-public assistance portion of the Title IV-D program does not return dollars to government. However, it fulfills an important government interest in assuring that parents, not the government, are the primary support of children. The Economic Equity Act would provide a clear statement of purpose for the Title IV-D program. It would state that the purpose of the program is not only to reimburse public assistance but to secure child support for all children. The Economic Equity Act would strengthen the intent of the program and would provide additional tools to assist in collection of child support for non-public assistance recipients such as the expansion of the tax intercept program and the establishment of state clearinghouses.

The substantive legislative enactments in Minnesota in recent years were targeted at a child support enforcement problem that is not unique to Minnesota. In fact, in numerous other jurisdictions throughout our country the situation is even more critical. Delays in interstate support matters of nine months and beyond are not uncommon when one state is dependent on another for enforcement action. In approximately 15-20% of our child support cases, Minnesota must rely on another jurisdiction for enforcement because the absent parent lives or works outside of the state.

Whether or not a Minnesota family receives child support in these cases depends largely on the statutes enacted by the other state or territory. If little or no emphasis is placed on child support enforcement in the other state, our hands are tied and our offer of enforcement services to the family becomes merely a gesture.

Eight years have passed since the enactment of Title IV-D of the Social Security Act. These eight years have taught us that state legislatures have to be convinced that their child support and paternity laws need to be strengthened. Increased national emphasis will gain the Title IV-D child support program the additional support and recognition it needs at the state and local levels. For these reasons the strong remedies of Title V of the Economic Equity Act of 1983, S.888, are essential to the overall child support enforcement effort in this country.

National Council of State Child
Support Enforcement Administrators

A Status Report
# of the
Child Support Enforcement Program

February 1983

THE CHILD SUPPORT ENFORCEMENT PROGRAM
A STATUS REPORT - FEBRUARY, 1983

EXECUTIVE SUMMARY

The National Council of State Child Support Enforcement Administrators has prepared this report to present its views regarding the support enforcement problem that exists for the many children affected by divorce, separation, or the lack of established paternity. A brief history has been included to aid the reader in understanding the scope of the problem and the program accomplishments. Recommendations for the future of the program must include the establishment of a national ethic that children have a right to be supported by both parents. The need is basic . . . children need their child support!

It is important for the reader to understand that practitioners in the field of support enforcement believe that the wrong approach has been used in the attempt to address the issue of poverty among children. Although well meaning, the vast network of social legislation addresses the symptom of the problem rather than the cause. The system provided welfare first, and later as an afterthought . . . child support enforcement. This course of action was taken in spite of the fact that at least 80% of the reasons for eligibility for Aid to Families with Dependent Children (AFDC) has been insufficient child support from the absent parent.

It is obvious to practitioners that if the national effort to try to fix the AFDC and other related welfare programs had instead been invested in curing the disease (lack of support), the nation would not be paying an estimated $30 billion annually for public entitlements. The primary reason for the 30 billion dollar problem was and still is caused by the lack of child support. The problem is not isolated to children receiving public assistance. Regardless of the income level, millions of America's children are being economically deprived and cannot achieve true potential if financial support is withheld by one or both parents.

In 1975, when Congress established the Child Support Program (Title IV-D of the Social Security Act), the establishment of a comprehensive support enforcement system was envisioned. In mandating states to provide AFDC and non-AFDC related services, it appeared the purpose of the program was to provide an opportunity for all children to receive support from their parents through more effective enforcement of state and federal child support laws. While the primary objective was to directly reduce the increasing burden on the taxpayer of maintaining the AFDC program, the law also required states to provide child support enforcement services for all applicants that were not in the AFDC program.

Child support practitioners are of the opinion that the program's focus from the federal perspective has changed. Instead of encouraging states to collect child support for children, AFDC collections for governmental reimbursements are now emphasized. The law created two programs to address the one issue of non-payment of child support. However, the federal government began to concentrate more than ever on the public assistance aspect of the Child Support Program by consistently recognizing only the AFDC related accomplishments. Faced with this situation, states are placed in a position of either following the letter of the law while ignoring the operational directives of the federal government, or deemphasizing regulatory requirements to adhere to the federal directives.

Actual collection history indicates that states vary considerably in their approach to the two services. Some states concentrate on AFDC collections while others focus on non-AFDC services. In FY 81, the program collected $1,628,894,466 at a cost of $512,517,943. This 3.18 to 1.00 ratio is obviously successful. A total of $958,256,541 was collected in the non-AFDC portion of the program and $670,637,925 in the AFDC portion.

Several studies done by individual states indicate that the non-AFDC child support program is responsible for saving millions of dollars each year in welfare costs avoided. The non-AFDC portion of the program encourages independent child support payments. This reduces the need for governmental dependency while helping to curtail financial deprivation in general. Federal law allows states, at their option, to charge a fee for these services. However, fees are not universally charged and experience has shown that when they are, they do not cover the cost of the non-AFDC portion of the program.

Decision makers need to realize that both portions of the program are cost effective and vitally important. Sufficient funding must be retained to adequately address both AFDC and non-AFDC child support cases. The establishment of paternity, interstate collections, and the many facets of the total problem of child support enforcement are common to both caseloads. In the final analysis, there is no substantial difference; it is a matter of children and their right to be supported by their parents. Decision makers need to redirect their priorities to address this vital root cause of poverty among children. Both parents, not governmental aid programs, need to be responsible for their children. The current Child Support Program is in the infant stage of returning this responsibility of all children to the parents.

HISTORICAL PERSPECTIVE

The first question to be answered was, "Whose obligation is it to support children?". Common law has historically failed to impose on absent parents a civil obligation to support their children. Although custody of children has traditionally been given to the mother, and the absent parent was the father, common law had not expanded much past that point. As late as 1953, the Supreme Court of New Jersey had difficulty finding a legally enforceable support obligation which bound the father to his children. The need was so basic -- but the remedy only referenced "natural law."

Viewed as a state and local problem for many years, federal attention was attracted as costs in the Aid to Families with Dependent Children (AFDC) program continued to escalate. Inadequate laws and a lack of funding were producing low child support collections while over 80% of those receiving AFDC were eligible due to the non-payment or insufficient payment of child support obligations. Contributing to the problem was the prevailing attitude that government, rather than the absent parent, should support abandoned children by means of the AFDC program. Unfortunately, this gave more credence to the concept that it was the custodial parent's responsibility (usually the mother's) to support the children. Due to the social acceptance of this trend, thousands of single parent families (even those not reliant on AFDC benefits) were left without a viable means of support.

To address this problem, Senator Russell Long, then Chairman of the Senate Finance Committee, and Representative Martha Griffith, then Chairwoman of the Subcommittee on Fiscal Policy of the Joint Economic Committee, developed and published an analysis of the welfare system. Both were dedicated to improvement of child support enforcement laws and practices. Changing social mores and the complexity of the problem helped to convince Congress to relieve the plight of the single parent by creating a federal office with oversight responsibility; the Office of Child Support Enforcement, (OCSE) was created effective August 1, 1975. The Title IV-D amendments to the Social Security Act created a funding mechanism to address this chronic national problem.

In their deliberations on the creation of the Federal Child Support Enforcement Program, the Senate Finance Committee stated:

> "The Committee believes that all children have the right to receive support from their fathers. The Committee bill, like the identical provision (H.R. 3153) is designed to help children attain this right, including the right to have their fathers identified so that support can be obtained. The immediate result will be a lower welfare cost to the taxpayer but, more importantly, as an effective support collection system is established fathers will be deterred from deserting their families to welfare and children will be spared the effects of family breakup." (Emphasis added).

Federal Involvement Was Necessary

Since the late 1950's, the number of single parent families has increased dramatically. That growth is directly attributable to the escalating numbers of divorce, marital separation and out-of-wedlock births. Then as well as now, the custodial parent, usually the mother, faced with a financial crisis often seeks financial assistance through governmental outlets. Since most heads of single parent households enter the work force at an inadequate wage level, they find their incomes insufficient to meet ordinary household expenses, day care, clothing and the transportation expenses related to working. The combination of the burdens of daily work, which provides an inadequate income, and the complete responsibility for rearing the children, often overwhelms the custodial parent. These factors, coupled with the lack of financial support from the absent parent, often place the custodial parent in a position of financial dependency upon governmental programs.

Current national estimates indicate one out of every three marriages in the United States ends in divorce. There is an obvious correlation between the increasing divorce rate and the increase in the number of welfare families with single parents heading the household. Seventy-eight percent of all welfare households consist of a single parent, usually a woman, who is providing the basic needs for her family through an assistance grant because the father withdrew or never provided financial support. When absent parents default and avoid their financial responsibilities, the chance of their children being supported by a governmental aid program is much higher. A study presented to the Senate Finance Committee by M. Winston and T. Forsher, "Non-Support of Legitimate Children by Affluent Fathers as a Cause of Poverty and Welfare Dependence", stated that non-support of legitimate children by affluent fathers was often a cause of poverty and welfare dependence. Another conclusion in the study was that many attorneys and public officials found child support issues boring and in some instances were even hostile to the concept of fathers being responsible for their children.

The Scope of the Non-support Problem

How serious is this problem of non-support of families by absent parents? Over seven million children are presently receiving public assistance in the United States through the various federal and state welfare programs. Of greater concern is the possibility that the very existence of the welfare program has caused some of the absent parents to conclude that if they have marital difficulties, they need not worry about the consequences of financially abandoning their families. From their perspective, the government will provide assistance for their children while they establish new lifestyles and often become parents of more children.

The number of children in single parent households is growing at a rapid rate. The 1970 census figures showed 8,265,500 children living with only one parent. By 1980, the number had grown to 12,163,600, nearly a 50% increase! The problem from a financial perspective is that nationally less than half of these custodial parents received the money due to them.

In the early stages of the welfare program, little was done to recoup the welfare dollars expended. As a result of this lack of action, many absent parents who may have been capable of paying became remiss in their obligation to support their children. For a considerable period of time, they were not made to bear the costs of supporting their children. Society simply "picked up the tab." The cost of the tab, however, has become incredible. In 1956, the total cash benefits expended in assistance to children was just over $617 million. By 1982, that figure increased to an astounding $12 billion annually -- a 2000% increase in 22 years. As staggering as that figure may be, it is not all inclusive. Additional billions were spent on food stamps, medicaid benefits, foster care, juvenile institutions, and other related programs.

THE CHILD SUPPORT ENFORCEMENT (IV-D) PROGRAM

Because of the immensity of the problem, in 1975 Congress enacted Public Law 93-647. Maintaining a child support program became an individual state eligibility requirement to receive federal match funding in Aid to Families with Dependent Children (AFDC). The Federal Office of Child Support Enforcement (OCSE) promulgated regulations covering the maintenance of case records, the establishment of paternity, the locating of absent parents, the enforcement of support, and the use of cooperative agreements among the states. The administration of the program was left to the state child support units, which are required to function within the parameters of federal regulations, local and state laws, county, and/or judicial prerogatives.

Originally, federal financial participation provided for 75% of the administrative costs of operating a child support program. The remaining 25% was provided by the state and or local government. With the 1982 changes in federal law, effective 10/1/82 financial participation is now a 70% - 30% split.

To encourage cooperation between states, local governments, other political jurisdictions, and to increase AFDC collections, the federal government also provided for a 15% incentive payment on AFDC collections. This 15% payment is deducted from the federal share of the AFDC distribution. However, the 1982 legislation provides that as of October 1, 1983, the 15% payment rate will be reduced to 12%. Lowering the incentive percentage rate will actually provide a disincentive to state programs.

A financial commitment is necessary to begin reversing the trend toward lack of cooperation between states that has developed. Continued and expanded support at the national level will result in future growth and success in the program. At the same time, the individual families will move toward less dependence upon the federal and state government for financial support.

There are two categories of cases; AFDC and non-AFDC. For children receiving AFDC, collections are distributed back to the state and federal governments. These collections are distributed between the two based upon the matching grant rate which the federal government provides to each state for their medicaid and AFDC programs. For families who are not receiving AFDC, collections are sent directly to the custodial parent. Neither the state nor the federal government receives any portion of non-AFDC collections (except fees), but both directly benefit because the collections do significantly reduce the potential for AFDC eligibility.

In FY 81, 1.6 billion dollars in child support payments were recovered from absent parents. This recovery effort represents a step in the right direction, but many barriers still exist which inhibit effective and efficient child support collections. The major barriers have been the lack of enforceable laws and resources to handle the immense nature of the problem. The difficulty is compounded by the large number of absent parents who cross state lines in an attempt to avoid payment of support. Nationally, only 11.3% of the absent parents whose children are on welfare are actually paying child support. Reliable data now exists which indicates that this figure can be greatly increased. A number of states are already receiving payments on over 20% of their cases.

The most current information available to the states demonstrates continuous progress in program effectiveness. The data below has been extracted from the 6th Annual Report to Congress, published by the Department of Health and Human Services, Office of Child Support Enforcement.

TABLE I

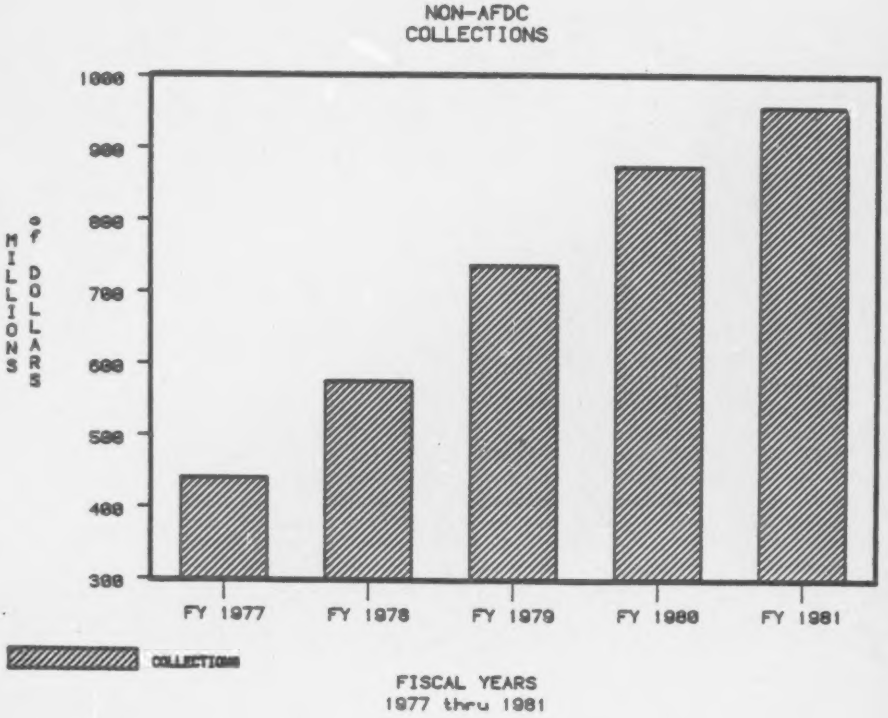
	1976	1977	1978	1979	1980	1981
Total Child Support	$512 mil.	$864 mil.	$1,048 mil.	$1,333 mil.	$1,478 mil	$1,629 mil.
AFDC Collections	204 mil.	423 mil.	472 mil.	597 mil.	603 mil.	671 mil.
Non-AFDC Collections	308 mil.	441 mil.	576 mil.	736 mil.	875 mil.	958 mil.
Paternities Estab.	14,706	68,263	110,714	117,402	144,467	163,554

Non-AFDC Collections

It is worthwhile to note, in reference to the figures on the graph below, that the funds collected in the non-AFDC category are distributed directly to families not on public assistance. Several independent state studies have estimated that 15% to 25% of these families would be on public assistance if the child support collection service were not in place. This translates into substantial savings in AFDC, food stamp, and medical assistance expenditures.

Table II depicts annual collection totals for the non-AFDC portion of the program. Collections increased nearly 117% during the five year reporting span and the effect from this collection effort is a reduction in individuals receiving AFDC assistance. While termed "cost avoidance", the AFDC reduction reflects a substantial savings in all welfare program expenditures. There would be a significant increase in the number of AFDC applicants if the non-AFDC collection program were allowed to diminish.

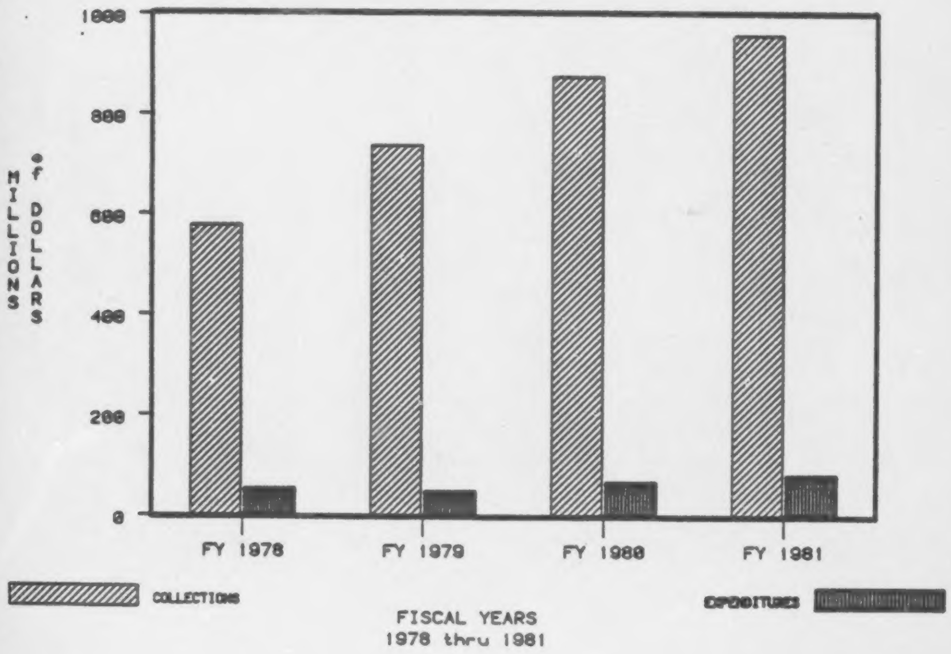
TABLE II



Non-AFDC collections indirectly offset the costs of the public assistance program. Table III shows the costs compared to collections in the non-AFDC program. It is significant to note that while the non-AFDC collection total is now one billion dollars annualy, this collection figure has not been used in the evaluation of the program's achievement. On the other hand, the cost of operations has been used as an integral part of the program evaluation. Practitioners are concerned about this and puzzled by the lack of compliance with congressional intent.

TABLE III

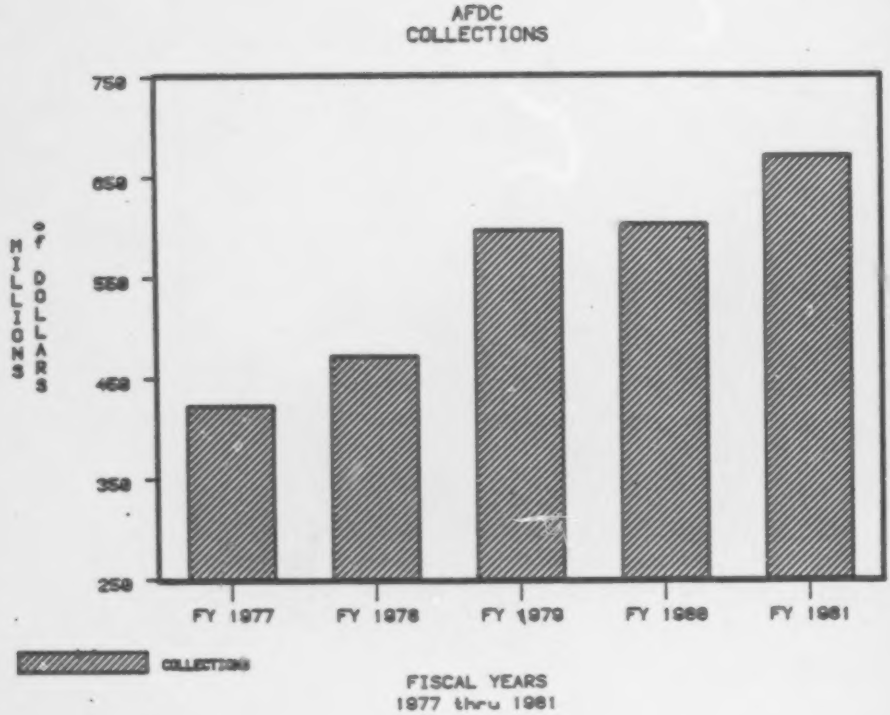
NON-AFDC CHILD SUPPORT
COLLECTIONS COMPARED TO EXPENDITURES



AFDC Collections

AFDC collections directly offset the costs of the public assistance programs. Table IV reflects significant annual AFDC collection increases during the periods FY 77 to FY 81. The program has experienced a 59% increase in funds recovered. Favorable legislative action or improved enforcement techniques at the federal, state, and local level, are directly attributable to this trend.

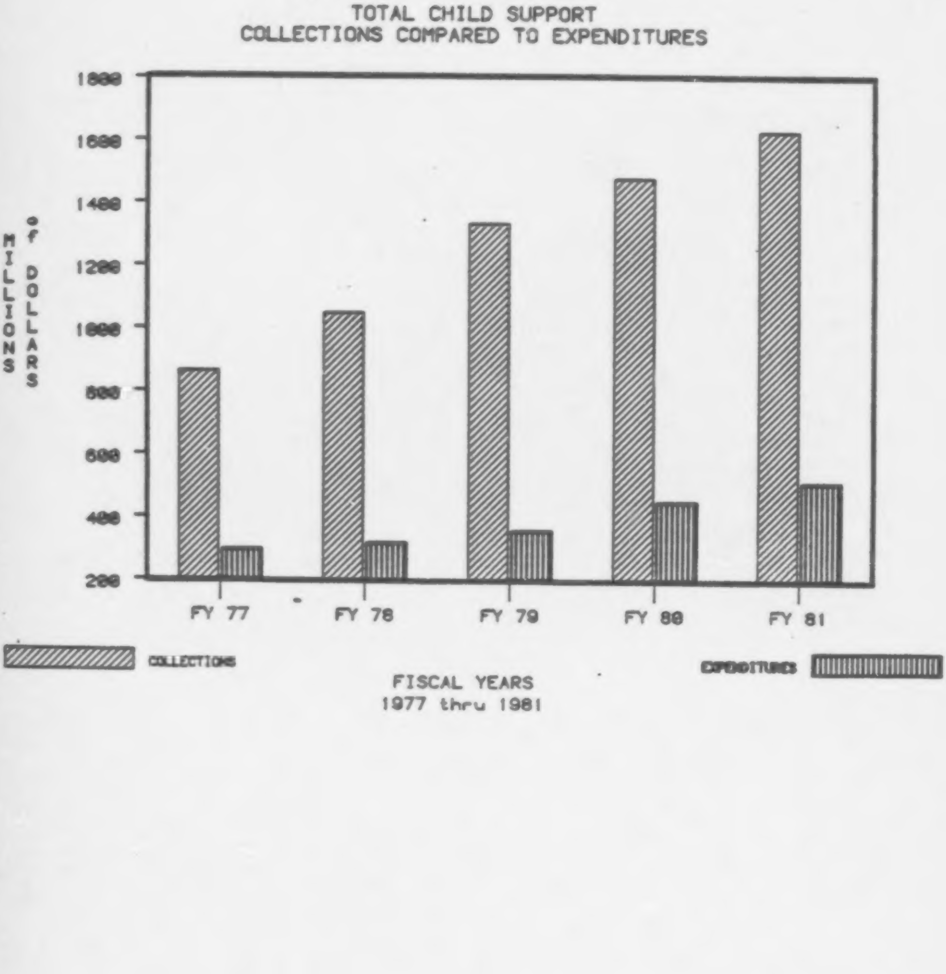
TABLE IV



AFDC and Non-AFDC Collections

A combined chart (Table V) showing the effectiveness of the AFDC and non-AFDC initiatives provides dramatic illustration of the program's success. This shows the difference between collections and expenses. Clearly, collections are running ahead of expenses by a 3 to 1 ratio. From FY 77 to FY 81, annual collections have increased by more than 750 million dollars, while the corresponding figure for expenses shows an increase of about 200 million.

TABLE V



Interstate Collection Difficulties

Due to the Nation's transient population, some states are experiencing a large influx of absent parents. These states are collecting an increasing amount of child support which is sent to another state where the custodial parent and children are living. In many cases there is a considerable difference in the amount that is sent out of state as opposed to what is returned. The local jurisdictions within the states are experiencing similar problems.

The state and local jurisdictions that actively pursue collection work on behalf of others, must deal with a distorted and often negative collection to expenditure ratio. This problem is complicated even further by the lack of uniform laws and legal requirements. It is imperative for the absent parent population to recognize that moving to another state does not eliminate their child support obligation.

Currently OCSE has initiated a contract to the National Institute of Child Support Enforcement (NICSE) to survey and study the interstate collection problem. This will include contact with approximately 10,000 jurisdictions and/or organizations which perform child support services nationwide. Work on this contract will start in early 1983.

Establishing Paternity

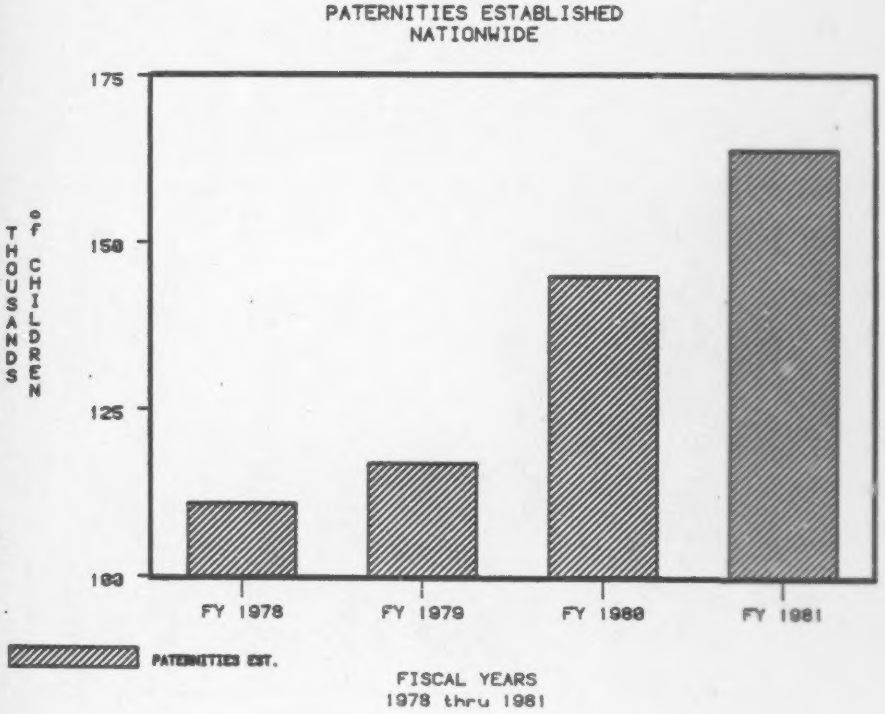
A significant factor which has contributed to the increased growth of the welfare program (AFDC) is the number of children born out-of-wedlock. According to statistics maintained by the National Health Center in 1979, there were an estimated 597,800 out-of-wedlock babies born in America. This was approximately 17% of all births, but is even more striking when compared to statistics of a decade ago. In 1970, unwed mothers had 399,000 babies, or 10.7% of all births for that year. OCSE reports that the large increase in the non-marital birth rate has brought a corresponding increase in the cost of AFDC funding.

The "inherent right" of the child starts with paternity establishment. Legally identifying the father establishes potential Social Security, veteran's assistance benefits, insurance benefits, and potential inheritance rights. It is the first step in shifting the burden of support from a government program back to both parents.

Currently, OCSE has initiated two contracts to study the cost effective aspects of doing paternity establishment. Work on these contracts will start in early 1983.

Table VI indicates a 68% increase in paternity determinations during the four year period ending 1981. This demand for paternity establishment should be paramount in every child support unit, however, the task is extremely expensive. These costs are immediate while the benefits are of a long term nature.

TABLE VI

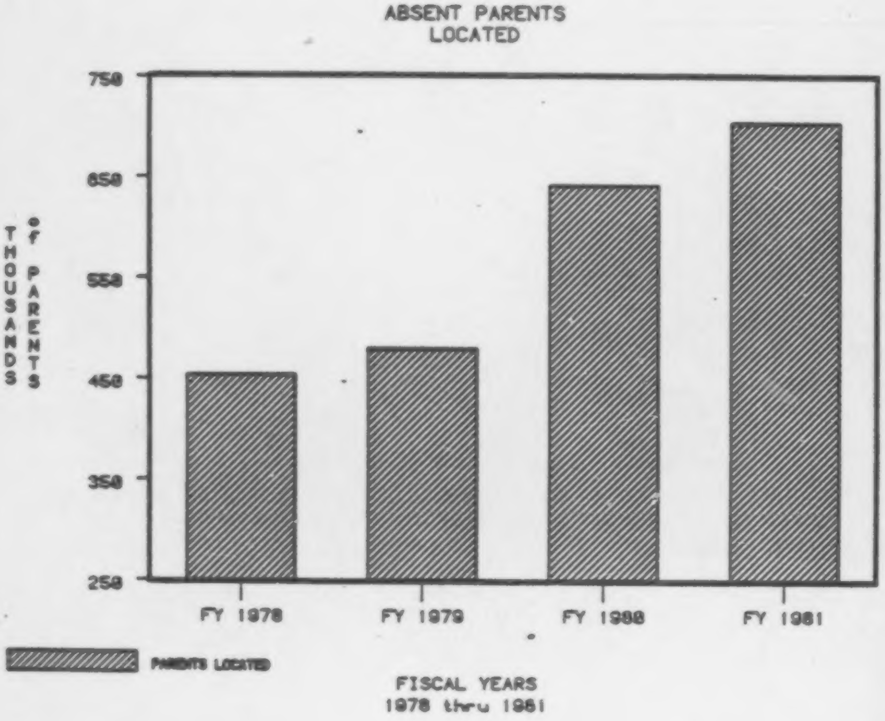


Locating Absent Parents and Establishing Support Obligations

In order to increase collections during the short history of the program, states have had to work on locating absent parents and establishing support orders.

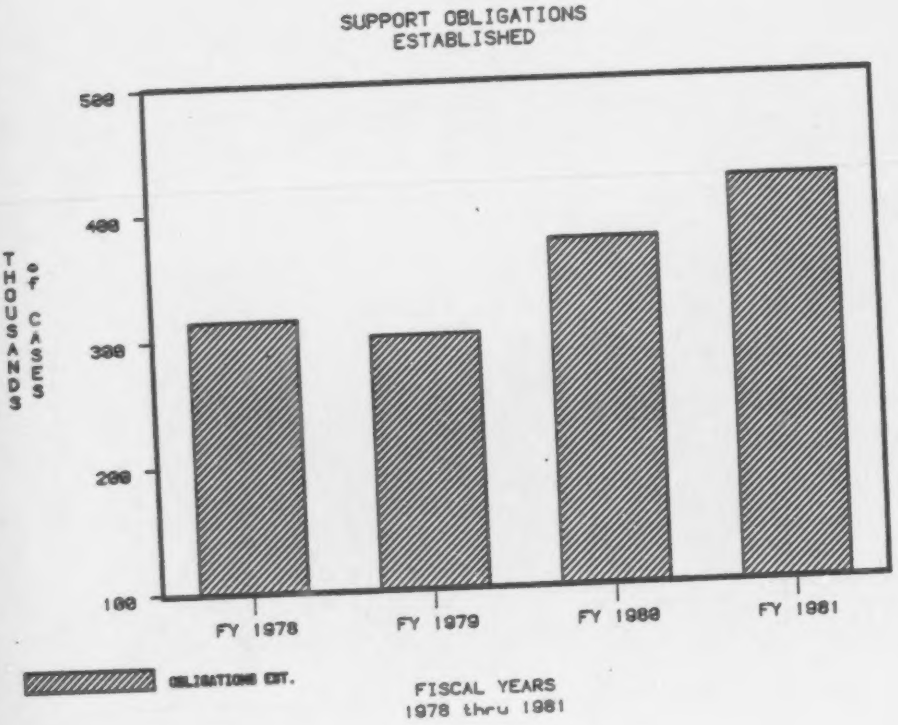
Before a case can be established as an enforceable order, the absent parent must be located. Table VII indicates the number of absent parents located for the establishment or enforcement of a child support obligation.

TABLE VII



Once the absent parent is located, a legally binding child support obligation must be established. Table VIII indicates the number of obligations that have been established.

TABLE VIII



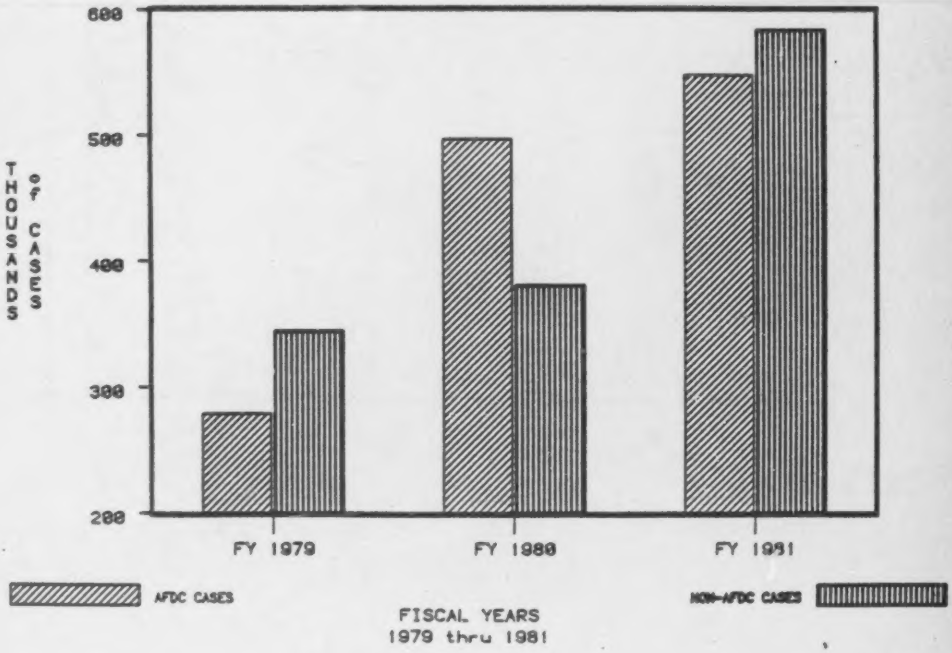
Increase In Cases Paying

The combined factors of locating the absent parent and establishing an obligation to pay has lead to a significant increase in the number of cases paying each month. Table IX illustrates this trend for both AFDC and non-AFDC cases over a three year period.

This chart points out the number of AFDC and non-AFDC cases paying and should be compared with amounts of money collected as indicated in Tables II and IV.

TABLE IX

AVERAGE NUMBER OF CASES
PAYING EACH MONTH



RESTRUCTURING

In 1982, operating under the premise that the program could be made more effective, "financial restructuring" was sought by OCSE within the Reagan Administration. There was, however, a considerable difference of opinion with regard to "Restructuring" between OCSE and the practitioners involved in the work. OCSE believed that "Restructuring" provided an incentive requirement that would force states to improve their child support programs. The practitioners in this field were convinced that "Restructuring" had major operational deficiencies that would hurt the program and set it back to pre-1975 levels. Although the dramatic restructuring sought by OCSE was not implemented, it is mentioned here since a modified version is currently before Congress.

Federal funding for the Child Support Program should be provided to ensure services for all needy children. The costs of establishing paternity cases should be recognized for their immediate nature as compared to their long range benefits. The AFDC cost avoidance aspect and other services provided in doing non-AFDC work as well as the transient or interstate nature of the absent parent should be considered as major factors in operating the child support network.

Instead of restructuring, the federal funding participation was reduced from 75% to 70% effective October 1, 1982. Effective October 1, 1983, "incentive payments" will be reduced from 15% to 12%. The concern of practitioners in the field is that these reductions will cause program atrophy. The program may dwindle because state and county budgets are, in many instances, not able to carry the load. This reduction in the federal portion conveys a message to all absent parents that non-payment of debts, like child support, is acceptable. Rather than crippling the program by changing the financial structure, emphasis should be placed on enhancing program efficiency through improved program direction. Better laws for the rights of the child, stronger recognition of exisiting laws by the judicial branch, and improved enforcement will bring the savings needed to continue a very effective program.

THE DILEMMA OF NON-AFDC PROGRAM DIRECTION

A major problem facing all states at this time is how vigorously to pursue the non-AFDC program. The regulations which provide for federal financial participation require the states to provide child support service to both the AFDC and non-AFDC families. However, emphasis is on AFDC collection. Caseload comparisons indicate that the states vary considerably in their approach to working both caseloads. Some states concentrate their main effort in the AFDC area, while others focus on the non-AFDC caseload. Reasons for this vary widely; some states react to state statutes which provide their guidance, while others operate from administrative direction. The paradox each state must face is whether to follow the letter of the law or the direction from the Office of Child Support Enforcement.

The wide variance in the state programs is illustrated by the fact that in one state only 0.9 percentage of their cases are non-AFDC. At the opposite extreme, another state has 81.3 percentage of its cases in the non-AFDC category. The dilemma is highlighted by the fact that both states are apparently meeting federal compliance requirements.

It appears that the reason AFDC has been emphasized over the non-AFDC work has been the difficulty in measuring the cost avoiding aspects of the non-AFDC program. It is noteworthy that a federal contractor, Maximus Corporation, in their first year study of the Child Support Program, concluded that approximately $323 million a year in costs of AFDC assistance were avoided through the states' pursuit of non-AFDC collections. Conversely, in their second year study as published in February 1982, they denied the existence of this cost avoiding aspect and indicated that any savings obtained were essentially lost through increased participation by marginal income households in food stamps and medicaid benefits. Based on the contradictory nature of their reports from year-to-year, it must be concluded that their data at this point is certainly inconclusive.

Currently, OCSE is preparing a contract to determine the cost avoiding aspects of the non-AFDC program. Work on this contract is scheduled to start during the summer of 1983.

One of the primary groups affected by the non-AFDC program are former AFDC recipients who are working in marginal income jobs. Obviously, if child support can be collected for these individuals, then very frequently even minimum wage jobs will preclude their need for assistance. Therefore, the need for strong non-AFDC collection efforts has never been greater or more beneficial.

While both programs are funded at the 70% FFP rate, many states are unsure as to how vigorously to pursue the non-AFDC effort given the current federal philosophy of emphasizing AFDC. Practitioners believe that some direction should be initiated by the U.S. Congress in this area.

Several options are available:

- Increase federal funding for expansion of non-AFDC and interstate services. Required with this is a clear statement that this is the direction to be pursued and that non-AFDC services are important and necessary.

- Continue federal funding at the current level for non-AFDC and interstate services with optional state fees for recovery of costs. Required with this is a clear statement that this is the direction to be pursued and that non-AFDC services are important and necessary.

- Limit program participation to some prescribed level of income. Required with this is a clear statement that service is limited to low income individuals.

- Mandate recovery of costs by some uniform deduction from collections. Required with this is a clear statement that the custodial parent is to bear part of the costs in operating the program.

- Separate federal funding for the AFDC program from the non-AFDC and interstate portion of the program. Each segment should stand alone.

Problems Within the Present System

The present child support enforcement system lacks reliability and is very slow to react to children's needs. It takes months after a family has separated to procure a child support order and in over 50% of the cases the court order produces little or no results for the child. In comparison, when someone applies for AFDC, rules and regulations ensure that within a 45-day processing period, the eligible applicant will receive money. The AFDC grant is reliable; it comes in monthly and generally the amount is consistent. Thus, the child's subsistence is assured. On the other hand, the custodial parent will often find that the child support order and the enforcement efforts may not produce a payment in time to do any good. Private legal representation is available but most custodial parents find it difficult to meet their basic needs, much less afford legal services.

At first both the child support and AFDC systems appear complicated and intimidating. However, the AFDC system is easier to learn while allowing the client to function independently. This system also provides food stamps and medical care. On the other hand, a lay person has difficulty functioning within the child support system and often has to depend upon legal representation with no guarantee of payment where their children are concerned. It is hard for the custodial parent to understand the delays involved in enforcement and due process for the absent parent. Thus, the child's immediate needs often supercede allowing the child support system a chance to work.

The Child Support Program does offer some relief from these complications for the custodial parent. All the deficiencies and delays are still there but the program does assist the custodial parent with the enforcement process. The practitioners recognize that a child support system that speaks to these problems must be developed so the AFDC Program does not appear to be so attractive.

Strengths and Accomplishments Within the Present System

More children than ever before receive child support and a larger number of paternity establishments are occurring. Simply stated, the program has created substantial results. States are recognizing the positive influences and are trying to enhance their programs by passing more effective legislation. Wage assignments, chemical analysis to establish paternity, enforcement of support orders through administrative processes and intercepting state/federal tax refunds are improving the efficiency of the system as a whole. Steps have been taken in the area of paternity to reduce blood testing costs and legal fees. Performance measures are being initiated to focus on collection goals.

POLICY DECISIONS

Considerable progress has been made in the seven year history of the program. Still, challenges remain and basic questions need to be addressed.

- Should the Child Support Program be viewed as a service or revenue generation oriented program?
- Should child support, coupled with an employment readiness and placement program, become the safety net for custodial parents and children who experience financial deprivation when the absent parent leaves the home, or should they depend on AFDC?
- Should a complete system reform occur?

For purposes of discussion, when giving consideration to any type of system reform, it is important to recognize two factors. State administration, resources and environmental factors will vary to such extremes that development will vary within each state. At this point in time, the Title IV-D Child Support Enforcement Program does not represent all children. When reviewing the system as a whole, the variances in each state should be recognized and all children must be considered.

RECOMMENDATIONS

- A congressional oversight committee should be established to study the ongoing needs of children deprived of child support.
- Initiation of congressional hearings to provide an opportunity for an analysis of the nation's child support network and recommendation for program enhancement.
- The system must obtain initial support payments for the child in less than 45 days.
- National guidelines should be established to determine the child's support needs and allowance.
- A stronger interstate system needs to be developed.
- Legislation must be passed requiring states to have mandatory wage assignments for child support payments.
- Legislation must be passed requiring states to provide for an administrative or quasi-judicial system.
- Legislation must be passed requiring states to provide for offset of state income tax refunds.
- There must be a move from a passive to an active system.
- The emphasis needs to be on collections.
- All employers must be required to provide locate and employment information.

SUMMARY

In the past, federal, state and local governments have not placed enough emphasis on child support enforcement programs. It cannot be overlooked that this lack of emphasis was attributable to the fact that recoupment programs were not compatible with the existing social philosophy. As those times have changed, it may be helpful to refer back to a quote that is well over 100 years old and is still true today.

> "If we first knew where we are and whither we are attending,
> we would better know what to do and how to do it."
> -Abraham Lincoln

It should be the policy of this Administration and Congress that the federal government be actively involved in working with the states to develop more effective and efficient programs. With increased national emphasis, the Child Support Program will get the additional support and recognition so greatly needed at the state and local levels.

Over 13 million children need a system they can depend on. The vast nature of the problem requires attention at the national level. Absent parents cannot be allowed to ignore the most basic obligation -- that of supporting and caring for their children.

NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS

Purpose

The Council was formed to promote the development of legislation and/or policies which would have a positive effect upon the state and national Child Support Enforcement program. The Council provides a forum for the State Child Support Enforcement Administrators to discuss common problems and solutions associated with program administration. It also provides a structured medium for continuous communication with the Federal agencies as to the views, consensus and professional opinions of state practitioners.

Membership

Membership in this Council is open to each state's Child Support Enforcement Administrator.

Information

For additional information about the Child Support Program in a particular state, please contact that state's program administrator.

For more information about this report, contact one of the Council Officers listed below or the State Administrators within your region as listed on the next page.

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Statement of
The National Council of Senior Citizens
Senate Committee on Finance
Hearing on The Retirement Equity Act of 1983 and the Economic Equity Act of 1983

June 20, 1983

The National Council of Senior Citizens is a non-profit, non-partisan organization with over 4,500 clubs and state and area councils in all 50 states, representing over four million elderly persons. We welcome this opportunity to comment on the issue of women and pensions. Given our constituency, our particular interest is ensuring adequate and reliable pension benefits for older women. We believe that S. 19, the Retirement Equity Act, and S. 888, the Economic Equity Act, address some of the problems associated with the existing pension system.

The elderly population in this country is approximately 26 million. Of this figure, more than 15 million are elderly women, 60 percent of whom are widowed, divorced, separated or never married: they do not have the economic support of a husband. Most single older women do not remarry, and because they have increasingly longer life spans, can spend more than 18 years alone.

This generally translates into a lower economic status for older women, especially those living alone. In 1981, the median income for single elderly men was $8,173; for single elderly women, it was $4,757, 58 percent of men's income. Half of all older women had incomes below and within $400 of the official poverty level.

Older women have four main sources of income: Social Security, pensions, earnings and asset income. On the average, older women receive 48 percent of their income from Social Security, 14 percent from pensions, 9 percent from earnings, 22 percent from assets, and 7 percent from other sources, including means-tested programs and family contributions.

However, these figures are deceptive since only a small fraction of women over 65 actually receive pension benefits. In 1981, 13 percent of all women over 65 received private pension benefits; the average pension benefit received was about $2,427, based either on their own work experience, or as survivors of working spouses. For 60 percent of all unmarried older women, Social Security is their sole source of income. The median income of older women from all sources was less than $4,000, or nearly equivalent to the poverty level.

From these statistics, two conclusions can be drawn: first, that as a source of retirement income for older women, pension benefits are clearly a relatively minor source; and, second, that many older women live perilously close to or under the poverty line.

Recent statistics uphold this latter statement. Nearly 3.9 million elderly Americans were in poverty in 1981. Seventy-two percent of them were women; nineteen percent of all women over 65 were at the poverty level in 1981.

Older women today tend to be overrepresented in the aged poor largely due to historical working patterns and dependency on men. Until recently, a woman's work generally consisted of homemaking, child-rearing, and supporting her husband, the wage-earner, in his career. Because women worked outside the home so infrequently, they had litte opportunity to accumulate personal savings and investments.

Therefore, the economic status of today's older woman is dependent on her husband and his current income and retirement income. Older women receive no economic benefit for their past contributions to their families. This leaves older women vulnerable to losses of benefits and income through divorce or death of the wage-earner. This is especially true in the case of private pensions.

Women often do not receive pension benefits--less than ten percent of all widows receive widows' benefits. Nor do many women earn pensions in their own right. Only 21 percent of all women employed in the private sector are covered by pension plans on their longest held jobs. Only 13 percent of all women actually receive any of their benefits. Pensions cannot presently be relied upon to provide even partial economic security to older women.

We will leave it to others to discuss the general problems surrounding pensions and women. Our main concern is with two problems particularly affecting older women--the widow's benefit and the disposition of benefits upon divorce.

An older woman may be sadly surprised to learn that she cannot collect benefits from her late husband's pension. As the system is now structured, the employee-husband has the sole right to elect a joint and survivor's annuity, otherwise known as the widow's benefit. Choosing this annuity means that as a couple, they will receive reduced pension benefits and the widow will continue to receive benefits (1/2 of what the couple received) after her husband's death. If the husband does not choose the widow's benefit, the couple will receive higher pension benefits for the husband's lifetime.

The election of benefit plan is solely in the hands of the employee--he does not have to inform his wife of whatever choice he makes. A husband may waive the widow's benefit without notifying his wife. Less than 40 percent of married employees elect to receive widow's benefits. Sixty percent have left their wives without this source of retirement income.

Even if the husband does elect the joint and survivor's annuity, there are circumstances under which the widow still will not receive it. A wife will not receive benefits if the husband dies prematurely. That is, benefits do not have to be paid until an employee is within ten years of normal retirement age or reaches early retirement age. Even if her husband was vested and eligible, a widow will not receive benefits if her husband dies too early. In addition, a widow will be denied benefits if her husband has elected the widow's benefit but he dies within two years of his choice. The questionable reasoning accompanying this is that it is to help prevent adverse selection. The unfortunate result is widows left without pension benefits.

In divorces, pension benefits are not always included in property settlements. Treatment of pensions upon divorce varies greatly depending on state law and the courts. Even in those states which divide property equally, not all consider pensions property. This especially hurts long-married women, who are divorced in later years. Moreover, survivor's benefits are not paid to divorced spouses.

We believe changes should be made in the pension system to allow pension benefits to play a greater role in the retirement income security of older women. The problems existing now almost exclusively victimize women and prevent pension benefits from providing a reliable and adequate source of income. We believe, in particular, that the wife should be consulted in the election of a joint-survivor's annuity and that her written consent be required before any choice is made. We also believe pension benefits should be paid to widows whose husbands die prematurely but who are vested at the time of death. Finally, we believe pensions should be considered legitimate property right, particularly in cases of divorce. S. 19 and S. 888 specifically address these concerns. In order to rectify some of the inequities in the current pension system, we urge that S. 19 and S. 888 be given careful consideration.

National Employee Benefits Institute

INTRODUCTION

The National Employee Benefits Institute ("NEBI") represents more than $31 billion in pension assets. NEBI was formed in 1977 to provide its members with direct access to all levels of administrative agencies and departments in Washington. The Fortune 1000 companies participating in NEBI are leaders in the field of pension planning and are vitally concerned with the policies underlying pension legislation and regulations.

NEBI supports the efforts of Congress to strengthen the private pension system. In 1974, the Employee Retirement Income Security Act ("ERISA") introduced federal legislation governing pension plans and other employee benefits. For the most part, American employers and employees adjusted to the requirements imposed under ERISA. After a period during which the number of plans being terminated increased markedly and the number of newly qualified plans declined precipitously, the private pension system again began to expand.

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"), made significant changes, both substantive and administrative, in employer sponsored retirement plans. Since portions of TEFRA have not been fully implemented, its ramifications, especially upon small employers, have not yet been fully determined. Before making additional changes to the private pension system, NEBI urges Congress to consider seriously the consequences of those changes and to measure the appropriateness of those changes in relation to the nation's experience with ERISA and TEFRA, the current state of the nation's public retirement program and the current condition of the American economy.

TESTIMONY

In response to the press release issued by Senator Robert J. Dole (R-Kansas), Chairman of the Senate Committee on Finance (the "Committee"), NEBI requested that its members and other interested parties review the provisions of S. 19 and S. 888, analyze the potential impact of these bills upon the private pension system in general, and their own pension and other employee benefit plans in particular, and submit their comments to NEBI. In accordance with Senator Dole's request, these comments have been consolidated for purposes of presentation to the Committee. Attached as Exhibit A is a chart which compares current provisions of the Internal Revenue Code and ERISA (as amended) with the amendments proposed under S. 19 and S. 888, respectively. Comments which have been received and summarized to date with respect to these amendments appear in the order in which these amendments are compared with current law on Exhibit A.

1. Cash-out Ceiling. Members support the proposed increase in the cash-out ceiling from $1,750 to $3,500 which is contained in S. 19, and recommend its inclusion in S. 888. This change provides needed recognition of the increased cost

of providing retirement annuities which has resulted from the high rate of wage and benefit inflation over the past 10 years. Members also requested that the bills mandate amendment of the Pension Benefit Guaranty Corporation regulations regarding plan terminations to permit cash-out of an employee upon termination of a plan where the present value of her/his accrued vested benefit does not exceed $3,500 (instead of the current limit of $1,750). Several members, recommended that the cash-out ceiling be raised to $5,000.

2. Assignment of Pension Benefits in State Domestic Relations Proceedings. Members generally support the provisions of S. 19 and S. 888 dealing with assignment of pension benefits pursuant to judgments, decrees or orders ("Decrees") entered in state court divorce or separation proceedings. These provisions provide needed clarification and codification of current case law. Several members noted that they had already incorporated similar provisions in their existing plans. Members were concerned, however, that the provisions of S. 19 and S. 888 might be construed to elevate the status of a divorced nonemployee spouse to that of a participant in a plan. Such a construction, could cause the plan to incur increased administrative costs (to deal with the increased number of participants), could necessitate payment of a substantially increased amount of termination insurance premiums

to the Pension Benefit Guaranty Corporation (especially if the proposed increase in such premiums to $6 per participant is adopted) and could cause the plan administrator and other plan fiduciaries to become liable to an increased number of parties. NEBI suggests that these potential problems could be eliminated by specifically providing that a divorced non-employee spouse will not be considered a participant in a plan as the result of a Decree entered in a state court divorce or separation proceeding with respect to benefits provided under the plan.

3. Distribution Pursuant to Decree Entered in State Court Domestic Relations Proceedings. Members generally do not oppose the provisions of S. 19 which require that a plan which provides benefits in the form of an annuity must make a single life annuity available to the recipient of benefits pursuant to a Decree entered in a state court domestic relations proceeding. To insure that a plan would not be required to pay benefits in excess of those payable had there been no divorce, members recommended that S. 19 and S. 888 should also provide: (a) that the total value of the annuities paid to the employee and the nonemployee spouse as a result of such a Decree must not exceed the actuarial value of the benefits which would have been paid had they remained married; and, (b) that the accrued

benefit of the employee at the time such Decree is entered is the maximum amount available for division pursuant to such Decree, subject only to an increase in the employee's vesting percentage.

4. Lump Sum Distribution/Rollover Treatment for Distribution of Benefits Pursuant to Decree Entered in State Court Domestic Relations Proceedings. Members generally support rollover treatment for qualified divorce distributions as proposed in S. 19. Some members, however, felt that a qualified divorce distribution should be entitled to favorable tax treatment as a lump sum distribution (including ten-year averaging) so long as such distribution is made within one taxable year and represents the entire interest of the recipient in such distribution, without regard to when the distribution is made or when the employee's distribution is made. Alternatively, these members suggested that a qualified divorce distribution should be entitled to lump sum distribution treatment if it represents the entire amount which the recipient is entitled to receive from the plan and is received in the same year that the employee receives the entire amount she/he is entitled to receive under the Plan.

5. Divorce After Annuity Starting Date. Members generally did not oppose the provisions of S.19 and S.888 requiring that the spouse of an employee on the annuity starting date who thereafter survives the employee must be treated as a surviving spouse even though divorced from the employee prior to her/his death. In fact, several members indicated that they already have similar provisions in their existing plans.

6. Spousal Consent to Elect Out Of Joint And Survivor Annuity. Several members indicated that their plans already contained provisions requiring the signature of both the employee and the nonemployee spouse in order for the employee to elect out of a joint and survivor annuity. These members also indicated that their experience with such plan provisions suggests that the requirement for a notary or a plan representative to witness the nonemployee spouse's signature is unnecessary given the small number of cases in which disputes have arisen. Several members suggested that the bills make it clear that the requirement for spousal consent does not impose any duty upon plan administrators or fiduciaries to verify the validity of signatures on a consent form or to make any inquiry or determination as to whether consent was given freely, voluntarily and/or knowingly.

7. Payment Of Annuity In The Form Of A Joint And Survivor Annuity Prior To The Earliest Retirement Age Or 120 Months Prior To Normal Retirement Age. Several members indicated that in their experience this type of requirement could result in a substantial cost to the plan. These members further indicated that they could and do provide comparable protection for nonemployee spouses more efficiently and more cost effectively through group life insurance coverage. To provide death benefits of this nature in a plan providing pension benefits blurs the distinction between retirement plans and life insurance plans. Furthermore, the provision in S.888 imposing this requirement does not make it clear whether a participant may be charged for the additional cost to provide pre-retirement survivor annuity protection. In a somewhat analogous situation under current law (*i.e.*, participant working beyond early retirement age who elects a survivor annuity), a participant may be charged for the cost of providing such protection. It is also unclear whether the survivor annuity must equal the value of a fully subsidized retirement benefit or an actuarially reduced retirement benefit.

8. Maternity/Paternity Leave. A number of members expressed concern with the provisions of S. 888 which require employers to credit employees absent from work (with the

employer's approval) on maternity or paternity leave with 20 hours of service for each week of absence both for purposes of determining the occurrence of a break in service and for purposes of participation and benefit accruals. These members noted that many plans already contain provisions which in effect prevent a break in service from occurring due to disability "maternity" leave. They also noted that the crediting of maternity or paternity leave for purposes of participation and benefit accruals might be particularly unfair to an employer in a case in which both parents are employed by the same employer. These members also indicated concern that implementation of such provisions would cause inconsistent treatment of employees who are on maternity or paternity leave and of employees who were temporarily disabled or absent from work for other "good" reasons. They also indicated concern with the costs plans might incur to administer the leave of absence provisions. Other members requested clarification of the criteria which employers would be permitted to use to determine whether to grant or withhold approval for maternity or paternity leave, and of the circumstances under which such approval, once granted, could be revoked.

9/10. Minimum Participation Standards/Minimum Vesting Standards. Almost all members submitting comments with respect to S. 19 and S. 888 expressed concern with the proposed amendments to the minimum participation and minimum vesting standards. These members pointed out that the same types of provisions were proposed during congressional consideration of ERISA. Such proposals were rejected at that time because Congress found, on the basis of the evidence presented to it, that until age 25, large portions of the work force were still transient and that accounting for such employees would impose unduly burdensome costs on employers. Congress also decided that the minimum participation and vesting standards in ERISA were reasonable in that they provided an appropriate balance between the need to grant employees the right to participate in pension plans at a relatively early age so that they could begin to acquire pension rights and the need to avoid administrative problems that would be involved in granting coverage to transient employees whose benefits would be small in any event.

Members were also concerned about the lack of empirical evidence to suggest that the participation and vesting rules established by Congress are no longer reasonable. They pointed to preliminary studies done by various research groups, some of which either have or will submit testimony to this Committee, which indicate that the proposed changes will not, in fact, raise overall pension participation significantly, result in the ultimate receipt of pension benefits or increase benefit levels. They point out that ERISA already provides that years of service beyond age 22 are to be counted for vesting purposes, regardless of the pension plan's actual participation standards and that it is common practice among many defined benefit plans to grant retroactive service credits under such plans once an employee reached age 25. They also point to estimates which indicate that the proposed amendments will significantly increase the costs of maintaining and administer pension plans since the proposed amendment would not only require employers to provide additional funding for their plans, but would also require them to handle record keeping for the accounts of employees who are several decades from retirement and who have not yet settled into careers with their employers. These members are concerned that these increased costs will dilute the amount available for pensions for those employees who have already accumulated a substantial number of years of service.

11. Ban on Use of Sex Based Mortality Tables to Determine Benefits under Insurance and Retirement Contracts. Extensive testimony has been presented in the course of hearings on S. 372 and H.R. 100, which contain provisions analagous

to those in Title III of S. 888. Further action on S. 372 and H.R. 100 has been deferred pending completion of a study by the Government Accounting Office. In view of the potentially far-reaching effect upon the private pension system, NEBI suggests that it would be appropriate for this Committee to review the record developed in the hearings on S. 372 and H.R. 100 and to postpone further consideration of Title III of S. 888 while action on S. 372 and H.R. 100 is pending. For the reasons articulated by Justices Powell and O'Connor in Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, No. 82-52 (U.S., July 6, 1983)(i.e., that a retroactive ban on the use of sex based mortality tables to calculate monthly retirement benefits would have a devastating, perhaps even bankrupting, effect on employer-sponsored pension plans), NEBI urges that the Committee, should it decide to adopt some version of Title III of S.888, provide that it shall have an entirely prospective effect.

CONCLUSIONS

Compliance with S. 19 and S. 888 in their present forms, would require major revisions in almost all pension plans and would impose significant legal, actuarial and accounting costs on employers maintaining those plans. Adoption of S. 19 and/or S. 888 will require amendment of almost all of the nation's 450,000 pension plans. If 400,000 of those plans incurred an average of $1,000 in legal, actuarial and accounting fees for their amendment (a modest amount in most instances), the cost to employers maintaining those plans for simply their amendment would equal $400 million. Rather than enhancing employers' abilities to maintain their plans and easing the burdens imposed upon employers during these troubled economic times, various aspects S. 19 and S. 888 would increase employers costs and make continuation of their plans substantially more difficult. NEBI and its members are concerned that before Congress imposes further regulations and further requirements upon private pension plans and the employers maintaining such plans, a careful, systematic and empirical study be conducted to determine whether it is worth substantially increasing administrative burdens upon employers in order to provide what current information indicates may be a relatively small benefit to a relatively small number of individuals.

EXHIBIT A

COMPARISON OF RETIREMENT EQUITY PROVISIONS CURRENT LAW -- S. 19 -- S. 888

	IRC/ERISA Provision	Current Law	S. 19	S. 888
(1)	411(a)(7)/204(d)	Cashout ceiling = $1,750	Cashout ceiling = $3,500	No provision re cashout ceiling
(2)	401(a)(13)/206(d)	No provision re assignment of pension benefits in state domestic relations proceedings	Permits accrued pension benefits to be subject to property divisions pursuant to state domestic relations proceedings but prohibits alteration of effective date, timing, form, duration or amount of payments under plans and elections not provided for under plans pursuant to such proceedings	Permits accrued pension benefits to be subject to property divisions pursuant to state domestic relations proceedings but prohibits alteration of effective date, timing, form, duration or amount of payments under plans and elections not provided for under plans pursuant to such proceedings

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	IRC/ERISA Provision	Current Law	S. 19	S. 888
(3)	401/206	No provision re distribution pursuant to decree, judgment, order in state domestic relations proceedings	Requires that plans which provide benefits in form of an annuity must make single life annuity available to recipient of benefits pursuant to decree, judgment, order in state domestic relations proceedings not later than plan year in which benefits are made available to employee; benefits payable pursuant to decree, judgment, order in state domestic relations proceedings may be distributed within single calendar year	No provision re distribution pursuant to decree, judgment, order in state domestic relations proceedings
	72(m)/ -	No provision re allocation of investment in contract where benefits payable pursuant to decree, judgment, order in state domestic relations proceedings	Investment in contract allocated pro rata between distribution of benefits to employee's (former) spouse pusuant to decree, judgment, order in state domestic relations proceedings and benefits distributed to employee	No provision re allocation of investment in contract where benefits payable pursuant to decree, judgment, order in state domestic relations proceedings

	IRC/ERISA Provision	Current Law	S. 19	S. 888
(4)	402(e)(4)/ -	No provision re lump sum distribution treatment for distribution of benefits pursuant to decree, judgment, order in state domestic relations proceedings	Distribution of benefits pursuant to decree, judgment, order in state domestic relations proceedings not entitled to lump sum distribution treatment	No provision re lump sum distribution treatment fo distribution of benefits pursuant to decree, judgment, order in state domestic relations proceedings
	402(a)/ -	No provision re rollover of distribution of benefits pursuant to decree, judgment, order in state domestic relations proceedings	Provision for tax free rollover of distribution of benefits pursuant to decree, judgment, order in state domestic relations proceedings if made within one year	No provision re rollover of distribution of benefits pursuant to decree, judgment, order in state domestic relations proceedings
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(5)	401(a)(11)/ 205(d)	No provision re divorce after annuity starting date	Spouse of employee on annuity starting date who thereafter survives employee treated as surviving spouse even though divorced from employee prior to her/his death	Spouse of employee on annuity starting date who thereafter survives employee treated as surviving spouse even though divorced from employee prior to her/his death
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	IRC/ERISA Provision	Current Law	S. 19	S. 888
(6)	401(a)(11)/ 205(e)	No provision re spousal consent to elect out of Joint & Survivor Annuity	Written consent of spouse required to effectuate employee's election out of Joint & Survivor Annuity	Written consent of spouse required to effectuate employee's election out of Joint & Survivor Annuity
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(7)	401(a)(11)/ 205(b) (c) and (g)	No provision requring payment of annuity in form of Joint & Survivor Annuity prior to earliest retirement age or 120 months prior to normal retirement age	No provision requiring payment of annuity in form of Joint & Survivor Annuity prior to earliest retirement age or 120 months prior to normal retirement age	Requires payment of annuity in form of Joint & Survivor Annuity where employee dies before annuity starting date and has accrued at least 10 Years of Service for vesting purposes
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(8)	410(a)(5)/ 202(b)	No provision re maternity or paternity leave	Employee absent from work for consecutive period due to birth of child or for purpose of caring for child immedidiately after birth credited with up to 501 hours of service solely for purpose of determining occurrence of break in service	Employee absent from work with employer's approval due to pregnancy, birth of child or for purpose of caring for child deemed to have performed 20 hours of service for each week of such absence

	IRC/ERISA Provision	Current Law	S. 19	S. 888
	411(d)/203(b)	No provision re maternity or paternity leave	No provision re maternity or paternity leave	Employee absent from work with employer's approval due to pregnancy, birth of child or for purpose of caring for child deemed to have performed 20 hours of service for each week of such absence
	- /204(h)	No provision re maternity or paternity leave	No provision re maternity or paternity leave	Employee absent from work with employer's approval due to pregnancy, birth of child or for purpose of caring for child deemed to have performed 20 hours of service for each week of such absence
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(9)	410(a)(1)/ 202(a)(1)	Minimum participation standards - generally age 25 and completion of 1 Year of Service	Minimum participation standards - generally age 21 and completion of 1 Year of Service	Minimum participation standards - generally age 21 and completion of 1 Year of Service
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(10)	411(a)(4)/ 203(b)(1)	Minimum vesting standards - Years of Service prior to age 22 may be disregarded	No provision re minimum vesting standards	Minimum vesting standards - Years of Service prior to age 21 may be disregarded

THE
NATIONAL
FEDERATION
OF
BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.
of the United States of America

2012 MASSACHUSETTS AVENUE, N. W.
WASHINGTON, D. C., 20036
293-1100

7 June 1983

The Honorable Robert Dole
United States Senate
Washington, DC 20510

Dear Senator Dole:

As you are probably aware, the Senate Finance Committee will be holding hearings on S. 888, the Economic Equity Act of 1983, on June 20 and 21. As President of the National Federation of Business and Professional Women's Clubs, Inc. (BPW), an organization which represents over 150,000 women and men, I urge your careful consideration of this legislation.

The Economic Equity Act of 1983 is an important step in the continuing struggle to achieve economic equity for working women. Today, women represent almost half of this nation's labor force, yet the average woman still earns only 59 cents for every dollar the average man earns. Moreover, women continue to face inequities in most areas of American economic life. Without the speedy passage and implementation of S. 888, women will continue to make up an ever increasing proportion of those living in poverty. Three out of five working women earn less than $10,000 each year, and one in three earns less than $7,000. Female-headed households are 15 percent of all families, but almost 50 percent of all poor families.

The Economic Equity Act of 1983 includes provisions which address many of the problems which women face. Those issues are: public and private pension reform, changes in the tax treatment of heads of households, spousal IRAs, insurance discrimination, identification of federal regulations which result in unequal treatment of women and men, additional tax credits for child care, tax credit for employing displaced homemakers, and revisions in child support enforcement procedures. BPW sees the passage of these provisions as one of our highest legislative priorities this year.

The mission of BPW, the oldest and largest organization for working women in the United States, is to promote full participation, equity and economic self-sufficiency for working women. In keeping with this mission, BPW has been working for the implementation of the Economic Equity Act since its introduction in April 1981. Again, I urge your careful consideration of this extremely important legislation.

If you need more information, or we can be of assistance in any way, please do not hesitate to contact Judy Schub at 293-1100.

Sincerely,

Jeri S. Libner

JERI S. LIBNER
National President

STATEMENT OF THE ORGANIZATION FOR CHILD SUPPORT ACTION, BY GUDRUN PICCICACCO AND GAIL M. SAXER

We, members of the Organization For Child Support Action, regret that we cannot appear personally to testify in favor of The Economic Equity Act of 1983, particularly Title V, which addresses the critical problem of child support enforcement. However, we very much appreciate the opportunity to submit written testimony.

Organization for Child Support Action originated in Ocean County, New Jersey in January 1982. It is an independent, non-profit, self-help, parent organization promoting awareness and enforcement of child support in all areas - financial, medical, visitation and supportive needs. Members are very supportive of one another, sharing experiences, boosting egos, learning to understand and use available tools and resources; enthusiastically learning new programs involving county, state and national levels; anxiously working toward improving incongruities found in five major legal concepts towards child support enforcement:

1. enforcement of child support orders.
2. child support and the judicial process
3. administrative procedures to establish/enforce support.
4. paternity determination and child support.
5. enabling legislation.

Our fine educational and emotional programs have promoted our growth. There are presently five chapters of the OCSA in New Jersey and nine Chapters across the country - Florida, Texas, Illinois, New York, Indiana, Missouri, North and South Carolina and most recently in Canada.

Lack of enforcement of child support orders and establishing orders is a major problem at the national, state and local levels,

NATIONALLY:

- 18 million children live in homes of divorced or separated parents.
- Non marital births rose from 10.7 percent to 17.1 percent from 1970 - 1979.
- 19.8 percent of the nations children live below the poverty level.
- In 1979, 31 percent of all children lived in female households with income below $5,000 per year as compared to 3 percent of all children living with both parents who had annual incomes of $5,000.
- Of 51 percent of the families eligible to receive child support that actually had child support awards, only 49 percent received the full amount due, 25 percent received less than the full amount due, and 28 percent received nothing.
- One-fourth to one third of the fathers ordered to make support payments never make a single court ordered payment.
- Women and children make up 93 percent of Aid For Dependent Children (AFDC) recipients and 69 percent of food stamp recipients.

IN NEW JERSEY:

- * It is estimated that there is only a 10% chance that the parent awarded child support by the court will actually collect it.
- * Of the nearly 170,000 families headed by women with children 17 years and under, 78,000 - or almost 50% - live in poverty.
- * Almost 360,000 children live in families headed by women; some 156,000 of these children live in poverty.

Here in Ocean County the Organization for Child Support Action is comprised of and works with parents and children who appear as statistics at the national and state level. For example:

> "From a battered home environment, Mark, Dawn and their mother live in a low-income, roach-infested housing project and are on welfare. The father remains in the marital home, refuses to sell the home and has claimed bankruptcy".

> "Nancy felt humiliated and intimidated as an Aid For Dependent Children (AFDC) recipient. She worked a year and a half as a legal secretary and quit because she lived below poverty during that time. Minus daycare costs for her three children and traveling expenses to work she had $90.00 a week left over to meet all expenses. The family no longer qualified for food stamps, Medicaid or other benefits. She was given no incentive help to keep her job and returned on welfare".

> "With her teenage son, Kay recently drove to Ohio from New Jersey, her fifth trip - hoping her personal presence in court, in the other

> state, would be beneficial toward enforcement of support. It wasn't. She links her failure to inadequate enforcement mechanism from state to state and the prestigious role the father plays within society. She and Rob were recently ordered to return to Ohio for psychoanalysis".

> "Unable to find moderate priced housing, unable to live with her sickly, elderly parents, Donna had no place to live nor could she find adequate daycare for her four children while she worked. She exhausted all social service programs who were unable to help. Unable to locate the children's father, she was forced to place her four children in foster homes - her only recourse. It cost the State much more to place the children than if she had help in keeping the family intact".

> "Joey attended school in everyday clothing on "dress up day". His mother could not afford new clothing. He was confronted with verbal and physical abuse from the other children. He left school very upset at eleven o'clock, went home and called his mother at work."

> "John qualifies for free school lunches even though his mother works. The other children began classifying him as "kid on welfare". He feels put down, angry and humiliated".

> "Shawn enjoys BMX, bicycle racing and does well in the sport. He is guaranteed to race only when the child support check is sent. His mother's low income barely covers necessities. He resents the material items his father provides for his stepbrothers and stepsister and not for him".

Passage of Title V of The Economic Equity Act of 1983 would result in the following benefits:

1. Children would receive a part of the financial support from the absent parents - support which is rightfully theirs.

2. In a separated or divorce situation, not only are children confronted with emotional and psychological trauma, but also financial deprivation. This basic deprivation translates into a lack of basic necessities such as food, clothing and health care as well as the inability to participate in recreational activities with their friends such as going to a movie and out for a soda or an ice cream.
3. It will help place the responsibility for support of children where it belongs - on the absent parent, Not Taxpayers. Failure to pay is not related to income. High income absent parents are as likely not to pay as low income absent parents. One study found that men who never paid had higher incomes than men who were fair or poor payers.
4. Because of the dramatic reduction in federal funds for social service programs children are no longer receiving basic necessities such as shelter, food, health care and clothing. The collection of child support would partially mitigate the impact of the loss of the programs.

The issue of enforcement and collection of child support must be and will be addressed NOW. Children - no matter where they live - need UNIFIED LAWS AND REGULATIONS for their health and well-being. At present laws, rules and regulations vary from state to state, from county to county.

Passage of Title V of The Economic Equity Act of 1983 represents only one of the many steps required to create a NATIONAL RESPONSE to a critical, multifacted issue. It will give HOPE to the parents who have exhausted all existing enforcement measures.

Woman tapped for T

B
Asbury Park Press
• Wed., Jan. 12, 1983

Ocean

Advocates child support

By BOBBI SEIDEL
Press Staff Writer

THE BLUE BUMPER sticker on her car proclaims in bold white letters: "Child Support — You Owe It To Your Kids."

That message is Gudrun Piccirocco's battle cry. The Lakehurst woman is the founder of the Organization for Child Support Action, a group whose literature carries the message "Protecting rights for the children."

Ms. Piccirocco's efforts to organize the one-year-old group have resulted in an unexpected opportunity to have her message heard across the nation.

Tomorrow she will be flown to Chicago by the ABC television network, where she will tape a show called "ABC — The Last Word" with Phil Donahue, the talk show host.

While the program appears at midnight on Channel 7 weeknights in this area, Ms. Piccirocco will not know exactly which night her show be broadcast until she tapes it Thursday morning.

What she does know is that she was contacted by ABC to appear with a couple from New York state to discuss a new federal law that allows the Internal Revenue Service to attach federal income tax refunds so states can be reimbursed for welfare aid given to families where child support payments were either in arrears or not paid.

Asbury Park Press

Gudrun Piccirocco, Lakehurst, is founder of the Organization for Child Support Action.

THE NEW YORK couple apparently have had it happen to them and are not happy, Ms. Piccirocco said.

She takes the other stand. Her group fully supports strong enforcement of all laws pertaining to child support payments.

The group lobbies for stronger child support laws, enforcement of existing laws, and wants to resolve the issues of non-support and visitation rights.

O.C.S.A. was only an idea in September, 1981, when she asked the Ocean County Advisory Commission on the Status of Women for help in forming a support group for people who had become frustrated trying to enforce payment of court-ordered child support.

"I thought, there's got to be someplace or something where people could go to for help," she said. "They said they were aware this was a problem."

In December, 1981 the commission helped Ms. Piccirocco hold her first meeting.

In January, 1982 the nonprofit, self-help group was on its own.

"People that arrive at the group's meetings for the first time are often angry or frustrated, she said.

"They were under the belief that they had a court order that would guarantee support for their child and they've found that that order is really not worth anything," she said.

ONE MAN IS there because he pays his child support yet cannot enforce his visitation rights, she added.

• Asbury Park Press/Fri., Oct. 29, 1982 B8

County Briefs

Child support

THE ORGANIZATION For Child Support Action will have Gail M. Saxer of the state Department of Community Affairs, Division on Women, as guest speaker at its meeting 7:30 p.m. Thursday in Room 319 of the Ocean County administration building, 101 Hooper Ave., Toms River.

The organization is an advocacy group dedicated to lessening the financial burden on women who are single parents.

C8 Asbury Park Press/Mon., Nov. 29, 1982 •

Community

THE ORGANIZATION For Child Support Action will have Frank Kirkleski, court administrator for Ocean and Burlington counties, as guest speaker next Thursday.

Kirkleski will lecture at 7:30 p.m. in Room 319 of the Ocean County Administration Building, 101 Hooper Ave., Toms River.

The organization is committed to stronger enforcement methods and a simplified collection process for child support payments. More information is available by writing to the organization at P.O. Box [illegible], [illegible], N.J. [illegible].

[illegible] Asbury Park Press/Wed., Dec. 15, 1982

County Briefs

THE ORGANIZATION For Child Support Action will meet 7:30 p.m. Monday in Room 319 of the Ocean County administration building, 101 Hooper Ave., Toms River. All are invited.

NOV. 4 - Gail M. Saxer of the NJ Division on Women will be guest speaker at the Organization for Child Support Action meeting, 7:30 p.m., Room 319, Ocean County Administration Bldg., downtown Toms River. For divorced or separated parents whose estranged partner has disengaged financial or other support.

[illegible]

Datebook

Asbury Park Press/Sun., Nov. 14, 1982 B9

NOVEMBER 15

H.O.P.E. for Widows & Widowers, weekly meeting, will feature discussion "Real Estate & Housing Needs" by Cynthia Baron from the Applebrook Agency, 8 p.m. Social Services Building, Kozloski Rd., Freehold (rear entrance). Open to public. Meetings every Monday night. For further info call 462-4601.

Organization for Child Support Action. Do you care? We care. Help us format OCSA'S questionaire to be used for statistics. By your suggestions, letting us know what your child support enforcement questions are. We're sure to help you to. Meet with us at the Ocean County Administration Building, 7:30 p.m., room 319.

United Fire Company No. 1 Ladies Auxiliary, Neptune City sponsoring a Christmas Basket Auction, 7:30 p.m., Neptune City

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PAGE 12A - ADVANCE NEWS - DECEMBER 15, 1982

OCSA To Meet

To all children it's the season to be jolly, happy and thankful. Santa Claus, Christmas trees and trimmings, baking goodies, giving and receiving gifts and fellowship all contribute to the holiday feeling.

Thousands of New Jersey children will not experience some of these fine traditions because one of their parents has shrugged off financial, medical, positive visitation or [illegible] of the child.

In the [illegible] and emotional aspects of child support the Organization for Child Support Action has been [illegible] to many parents. If the OCSA treasury [illegible] each and every child would receive his or her dream-come-true.

Four days before Christmas, Dec. [illegible], the OCSA will meet at 7:30 p.m. in Room 319 of the Ocean County Administration Bldg., Hooper and Washington, downtown Toms River

"People are looking for avenues of help," she said.

The group shares not only knowledge gained from 15 different committees, but emotional support.

"The actual coming-out to meetings is very hard. In many instances, there's no money for baby sitters," she said. "People come to us needing a rebuilding of self-esteem. We tell them they're not alone."

The first thing the group does is determine what steps a person has taken to obtain support payments. Usually, that person will be told to contact the Ocean County Probation Department.

That office sends a notice to the delinquent spouse. If there is no response, a second notice is sent. If a third notice is needed, a court date is set, she explained.

A judge can order the payment of support, or under the New Jersey Enforcement Act, have the spouse's wages attached for child support payments.

The problem with that law, effective as of last January, is that each case is up to the judge's discretion, she said.

"THERE ARE ONLY 10 to 15 states where there are mandatory wage execution laws," she said.

Her group seeks to make New Jersey's law a mandatory law, she said.

Another avenue of help, only available to the government, is the subject of the television show.

The Tax Refund Offset Project is a federal law established under the Omnibus Reconciliation Act of 1981.

Developed by the IRS and the federal Office of Child Support Enforcement, it allows the IRS to attach federal income tax refunds to repay the federal Aid to Families with Dependent Children Program. AFDC gives welfare payments to families where legal support payments are not being made.

In the first six months of 1982, there were 36,890 cases in New Jersey that were submitted for this federal program, according to the National Child Support Enforcement Reference Center, part of the U.S. Department of Health and Human Resources.

These cases cost the state $198,818,000. The federal program recovered $9,363,400.

IN OCEAN COUNTY, about 1,900 cases were submitted to the government by the probation department at the end of 1982, said Millard Thompson, a supervisor in the child support department. He said that his office handles about 6,000 child support cases annually.

Ms. Piccicacco and her group want the federal law to be applicable to every person who is not receiving child support payments, not only for families on the AFDC program.

"With federal laws, we know we have child support laws that are unified from one state to another," she said.

Her group is forming a chapter in Bergen County and has had inquiries from Monmouth County. Plans are for the group to go state-wide and then nation-wide.

The group will meet at 7:30 p.m. Jan. 31 in the Ocean County Administration Building, Hooper Avenue, Toms River.

Information can be obtained by writing to O.C.S.A., P.O. Box 163, Lakehurst, N.J. 08733.

[illegible] - ADVANCE NEWS - FEBRUARY 9, 1983

Child Support Advocate Speaks

MANCHESTER - [illegible] Picciaccacco is getting used to being on television.

Her first appearance, filmed last month in Chicago, was on the Feb. 4 edition of ABC TV's "The Last Word." Then came a live telecast of "The Children's Hour," a special interest program on Channel 9.

Ms. Picciaccacco is the founder of Organization for Child Support Action, a growing group of divorced and separated parents who meet to discuss the problems of child support and other related matters.

OCSA, barely a year old, is receiving attention because its subject is becoming more vital as the nation's divorce rate climbs.

There are about [illegible] people who attend sessions on a regular basis according to Ms. Picciaccacco, a divorced parent who was awarded custody of her children.

The group's meetings offer guest speakers to help members deal with the problems they face as single parents and as divorced or separated parents. Many parents attend the meetings as much for moral support from others in the same situation as to find out where they can go to assure a steady child support arrangement.

[illegible] have been invited to the next session, set for 7:30 p.m. Feb. 28 in the Ocean County Administration Bldg. in downtown Toms River, to discuss the Welfare Reimbursement Act and its effect on children of divorced and separated parents.

The key figures in the OCSA meetings are the people who aren't there: the children. The group members are always seeking ways to make sure the children get what they need. Often that involves exploring new ways to assure [illegible] of court-ordered child support payments and the different agencies which offer help to the parent with custody of the children when these payments are not forthcoming.

Ms. Picciaccacco noted that a new regulation permits the withholding of income tax refunds when child support payments are not made, the topic of discussion on "The Last Word." But the new regulation doesn't go far enough because it only allows withholding when the child and custodial parent have received public assistance, she says. There are many cases when the absent parent does not provide the court-ordered support and the custodial parent and child do not receive welfare, Aid to Families with Dependent Children, or similar federal programs.

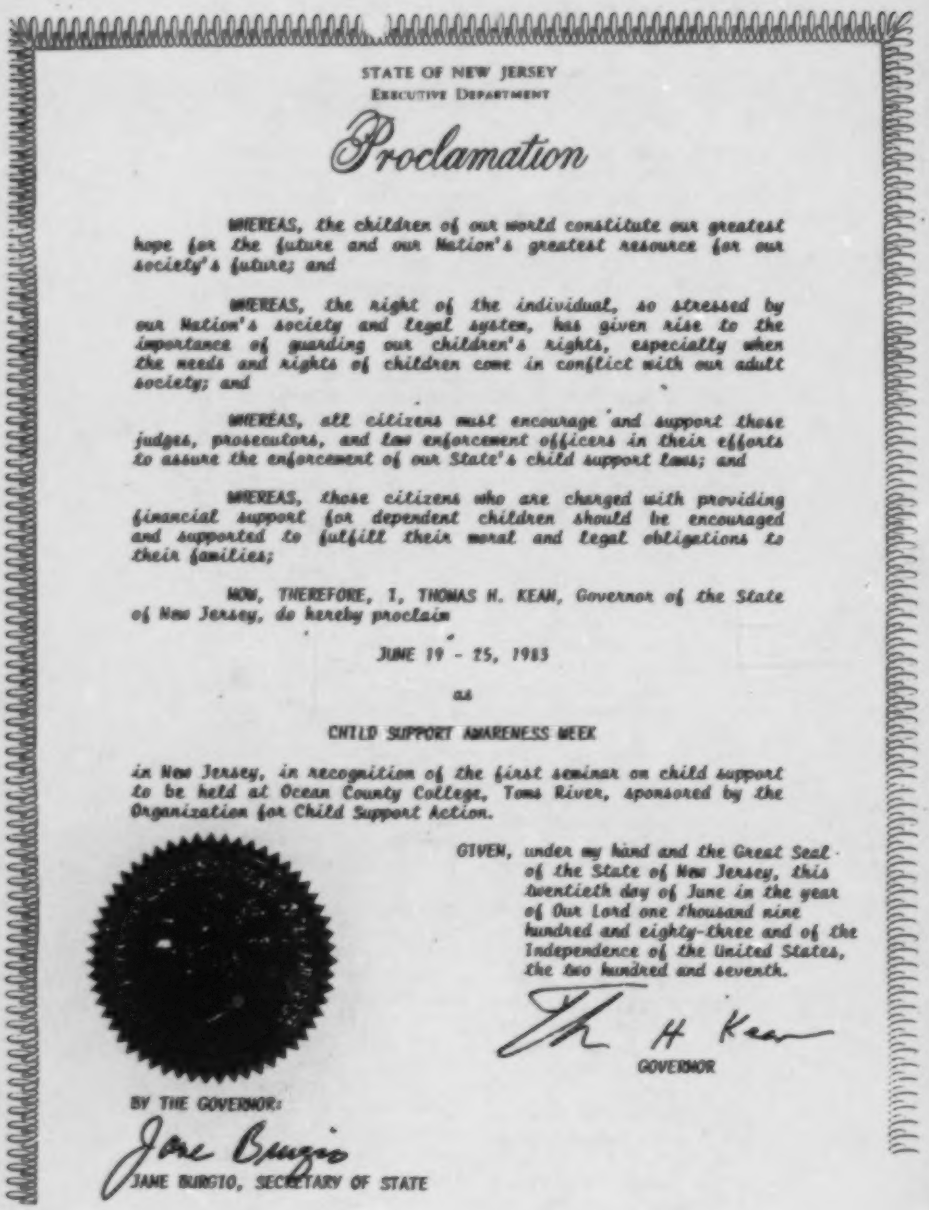
And it's the child who is hurt most often when payments are not made, Ms. Picciaccacco points out.

"Our concern is for the children," she said. "We must protect their rights in every way possible."

Children's rights were an important part of the discussion on "The Children's Hour," when the topic was "Children's Needs 1983."

And they'll be the focus of Child Support Awareness Month, an OCSA-sponsored program set for the period between Mother's Day and Father's Day.

Persons interested in the group are invited to attend OCSA meetings the fourth Monday of each month in the Ocean County Administration Bldg., downtown Toms River. Meetings begin at 7:30 p.m. For more information, write Organization for Child Support Action, P.O. Box 163, Lakehurst, N.J. 08733.



STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Proclamation

WHEREAS, *the children of our world constitute our greatest hope for the future and our Nation's greatest resource for our society's future; and*

WHEREAS, *the right of the individual, so stressed by our Nation's society and legal system, has given rise to the importance of guarding our children's rights, especially when the needs and rights of children come in conflict with our adult society; and*

WHEREAS, *all citizens must encourage and support those judges, prosecutors, and law enforcement officers in their efforts to assure the enforcement of our State's child support laws; and*

WHEREAS, *those citizens who are charged with providing financial support for dependent children should be encouraged and supported to fulfill their moral and legal obligations to their families;*

NOW, THEREFORE, I, THOMAS H. KEAN, *Governor of the State of New Jersey, do hereby proclaim*

JUNE 19 - 25, 1983

as

CHILD SUPPORT AWARENESS WEEK

in New Jersey, in recognition of the first seminar on child support to be held at Ocean County College, Toms River, sponsored by the Organization for Child Support Action.

GIVEN, *under my hand and the Great Seal
of the State of New Jersey, this
twentieth day of June in the year
of Our Lord one thousand nine
hundred and eighty-three and of the
Independence of the United States,
the two hundred and seventh.*

Th H Kean
GOVERNOR

BY THE GOVERNOR:

Jane Burgio
JANE BURGIO, SECRETARY OF STATE

A34 Asbury Park Press/Sun., June 26, 1983

Child support record poor, says state aide

DOVER TOWNSHIP — Several ideas must be considered for improving collection of child support payments, a state government spokesman said yesterday.

Harry Wiggins, chief of the N.J. Office of Child Support, said it is estimated half of all children born in the United States this year will be raised by a single parent.

"The chance of getting child support today is not especially good. It looks like you have about a 10 percent chance of getting any support, and that's a national disgrace," he said.

Wiggins spoke at seminar sponsored by the Organization for Child Support Action, titled "New Jersey's First Public Child Support Awareness Seminar," at Ocean County College.

Other speakers included Joan Wright, director of the state Division on Women; Gail M. Saxer, of the division, and James A. Pindar, representative of the governor.

Wiggins said New Jersey has passed a number of laws aimed at improving the collection rate in recent years and doubled the amount collected. But more must be done, he said.

One law permits the custodial parent to ask the local probation department to garnish the wages of an absent parent who is at least 25 days late in making court-ordered child support payments, he said.

But problems persist, he said.

For example, it is difficult to determine the amount of wages earned by a self-employed person, he said. A law that permits interception of such a person's income-tax refund for payment of overdue child support might help, he said. A similar law exists, but it only applies in welfare cases, he said.

Another problem is with society's attitude towards child support, which might be changed through groups such as the Organization for Child Support Action, he said.

Wiggins said he has seen cases where a man was brought to court for non-payment, only to have the judge dismiss the arrears accounts.

"That's incomprehensible to me," he said.

In many counties it doesn't help to obtain an arrest warrant for a parent who has failed to pay child support, either, because busy sheriff's departments often give those warrants the lowest priority, he said.

"The safest place to be in New Jersey is on an arrest warrant (for non-payment of child support). You know no one will come looking for you," he said.

Judges are reluctant to jail, even for one day, a person who violates a child-support court order, because jails are already overcrowded, Wiggins said.

But one judge in Essex County had a "pay or stay" policy when parents were brought to court for non-payment.

"Rarely did anyone spend the night," he said.

Another problem is interstate reciprocity, he said. While New Jersey tries to work with other states on child support cases where the obligatory parent lives in New Jersey and the custodial parent does not, other states are less cooperative, he said.

Wiggins noted that the custodial parent trying to obtain outstanding child support payments must go through about 12 different governmental agencies, including the county probation, sheriffs, adjustors, prosecutors and social services offices, and Superior Court.

"There is no one concerted effort by any one agency or individual. Everyone is pointing a finger at someone else," Wiggins said.

But in a pilot project in Essex County, one person was put in charge of the child support program, and all the other involved agencies worked through that person. With the responsibility and authority focused on one person, the collection rate increased 37 percent, he said.

Child support programs need to be automated, he added, to speed the process and tie it with other counties and states where the obligatory parent may live, Wiggins added. In many counties the child support files are kept on cards in big boxes, and one must hunt for them by hand, he said.

"If Visa or BankAmericard operated an accounts receivable like that they'd probably last one day," he said.

Information about the local organization is available by writing to the Organization for Child Support Action, Ocean County Chapter, P.O. Box 163, Lakehurst, N.J., 08733.

STATEMENT OF THE NORTHERN VIRGINIA CHAPTER ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT, BY RUTH E. MURPHY, COORDINATOR

BACKGROUND

There is a new social disease that is attacking the mainstream of our social structure. An epidemic of non-support which previously was associated primarily with Welfare recipients has now filtered into both the middle and upper classes. The non-supporting parent shows no discrimination. The recent increases in desertions, separations, divorces, and children born out of wedlock, coupled with lack-luster enforcement of existing child support orders, have created a national disgrace. Confronted with overcrowded dockets, Judges continue to exhibit a great reluctance to strictly enforce the existing laws. Instead, child support cases are often subjected to broad and inconsistant interpretation, making a mockery of our judicial system. The most pathetic aspect of this entire tragedy is that parents are unnecessarily subjecting their own children to substandard levels of living.

All states have statutes establishing a child's right to financial support from both parents. As an example of the magnitude of the problem, there are over 200,000 active child support cases in the State of Virginia. Assuming an average of 2 children per case, there are approximately 400,000 children in Virginia, alone, who are needlessly being deprived of the basic necessities of life.

Both the non-paying parents, as well as the legislative and judicial branches, are at fault in this miscarriage of justice. Jurisdictional disputes, non-reciprocation, due-process abuses, and a host of other technicalities reinforce the prevailing attitude of non-paying parents that our society is not serious about the problem or its solution.

Due to the abundance of local, state, and federal agencies - each maintaining its own figures - the total extent of the problem cannot be accurately ascertained. One fact is certain; no matter what statistics are used, the problem has reached staggering proportions.

INITIAL EXPECTATIONS

To those parents who have been awarded child support, it should realistically represent a dependable source of income and should be factored into the post-divorce budgeting of both parties.

Much to their surprise, budgets are often dealt an unexpected blow after a few months to a year. For a variety of reasons, some grounded, some not, child support payments begin to dwindle and/or end abruptly. It is now quite evident just how insecure their financial future is. The effects are far-reaching and traumatic.

The harsh reality of the situation causes frustration and disbelief on the part of the custodial parent, ofter resulting in a substantial loss of valuable time before deciding to take legal action to recover outstanding child support. This hesitation causes a further disadvantage when enforcement proceedings begin. Financially weakened, they cannot afford the luxury of an attorney. Most are not eligible for free legal aid or Welfare. On the other hand, the delinquent parent has an entire paycheck avaliable for legal fees.

A point of interest that is frequently overlooked by our judicial sector - is if delinquent parents paid their child support, an attorney would not be needed. A parent has chosen to support an attorney, rather than the children.

By allowing delinquent parents to evade child support, either through the judicial systems lack of enforcement or the custodial parents reluctance to begin legal proceedings, the attitude is perpetuated that the children are surviving without child support and therefore, do not really need it. Eventually, child support is viewed and referred to as the "ex-spouse's money".

When the custodial parent does turn to legal counsel, they often seek advice from the original divorce attorney. After being advised of the fee, which is typically 1/3 or more of the arrearages, the custodial parent may decide to review other alternatives.

If a decision is made to contact the Court, the case would normally be referred to the Support Collection Unit or, in extreme financial cases, the Welfare Department. This pursuit of collection usually begins with a warning letter from the attorney or Support Collection Unit to the delinquent parent. If payment is not then received, the next step would be to prepare a petition for a hearing. After issuance of a notice of hearing, one would reasonably expect payments to resume. What one might expect and what one actually receives is not always the same. One would also expect a simple set of judicial procedures and a sympathetic court clerk. In spite of all your difficulties, you have an innate belief that the Court will enforce the support order.

It should be noted that fees are charged to non-AFDC parents for services that are freely given to those receiving AFDC. This is a major factor that deters many needy parents from further pursuing collection.

INITIAL PROCEDURES

Step one - the initial process is implemented in many ways depending on where the non-custodial parent resides.

If both parents reside in the same jurisdiction, there is no question of jurisdiction and likely very few problems with service.

Jurisdictional problems arise when the absent parent resides in a different jurisdiction. If the parent's whereabouts is known, the available remedies are URESA, RURESA, and long arm statutes. Travel to the hearings in the responding states is advisable, when possible. It is, however, not the usual procedure for the responding state to notify the custodial parent of the date of hearing. Therefore,one has to be in constant contact with the Court.

Once located, there is nothing preventing the delinquent parent from moving across county or state lines. Thus, it becomes necessary to begin the process over again in most cases. Very few states and counties cooperate fully when faced with this situation, as it can become very time-consuming, without any hope of satisfaction.

The most difficult and frustrating set of circumstances is when the absent parent has disappeared. Even utilizing available contacts through former employers, family, friends, and eventually Parent Locator Services, your efforts might well result in failure. If you do succeed in locating, then URESA, etc. can be used. On the other hand, Welfare or poverty level existance are the only alternatives. More and more we find parents returning to the extended family home, adding extra financial burdens on family and/or friends.

WEAKNESS IN JUDICIAL ACTION

Lack of Judicial enforcement is typically caused by due process technicalities. Due to a wide range of judicial latitude and broad interpretation of existing laws, there are many variations in what actually constitutes valid service.

Close encounters with Court personnel have shown that some internal problems are founded on a shortage of experienced, qualified and interested personnel. The rapid increase in child support cases over the past few years has left us with an overburdened staff in our court systems. It is quite unreasonable to expect high quality performance from one counselor who may be responsible for the maintenance of over 600 cases.

The possibility of a series of continuances is ever present. Request for interrogatories before initial hearings can be a valuable tool, but is too often misused as a delay tactic by the defense. Delays and continuances often benefit the delinquent parent by forcing the custodial parent to give up their battle.

Varying circumstances sometimes prohibit cases from being heard in a timely fashion, thus resulting in a period of months before the first hearing is scheduled. During this time unpaid child support continues to mount. An inexperienced child support recipient usually assumes that, after registering a petition with the Court, child support will be forthcoming immediately. Surely anyone being issued a "Show Cause" notice or Notice of Hearing by the Courts will be intimidated by such an action. Everyone knows that you can go to jail if you do not pay child support. But, in fact, do they?

The scenario of the hearing usually brings the customary first offense wrist-slapping or suspended sentence. The "token" partial payment only creates further disrespect for the system and sets the stage for modification of the existing monthly obligation. Brinksmanship is used many times by the delinquent parent and unfortunately is allowed by the Judge in the process of enforcing a child support order. When arrearages have been allowed to reach an amount deemed by the Judge to be punitive to the delinquent parent, they are often modified or forgiven. This decision, in reality, is punitive to the children.

RECOMMENDATIONS

There are many areas in need of improvement. Judges should make a sincere effort to strictly enforce existing laws. Emphasis should be given to the narrowing of judicial latitude, wage assignments, registration of foreign judgments and liens, and the application of incarceration and work release programs.

With the overwhelming increase in child support cases, many Courts are overburdened and cannot perform their required duties effectively. Hiring and training adequate numbers of personnel should be a high priority.

Through the use of computers, a logical move would be to institute a "self-starting" mechanism for collections. Much of the burden of initiating the legal process is placed directly on uninformed and frustrated custodial parents. A self-starting mechanism would eliminate much of the delay caused by the show cause process that is used in most states.

Information resources could be improved through the use of Credit Bureau Data Banks. Los Angeles County, California has experienced a significant increase in collections since its implementation in 1981. Operative costs are extremely low and eventually become self-sustaining.

Repeated delays in hearings cause a substantial amount of lost time from work. Many parents, who are now the sole support for their children, are prevented from pursuing collection of child support because they can ill afford to jeopardize the only source of income for their children. Night Court is a possible solution to this problem and also, would alleviate the overcrowded daytime docket.

Lack of uniformity is not limited from state to state, but county to county, and even agency to agency within counties. Standardization of Federal Regulations deserves immediate attention with particular attention to interstate cases. The success ratio of interstate cases could be increased through federally enforced compliance by the States of existing and future reciprocal legislation.

IMPROVED DIVORCE DECREES

Lets now return to where the problem originates - DIVORCE. The introduction of Divorce Guidelines by the States could preclude some of the inevitable results when all issues are not equally addressed pre-divorce. The following are suggested:

1. Joint custody consideration, when desired
2. Defined visitation (this not only encourages child support payments, but eliminates a familiar battleground)
3. Strict enforcement of visitation rights
4. Provision for payment problems - eg. interest, attorney fees, allotments, judgments
5. Provision for child support during visitation

PARENT LOCATOR SERVICE

Although the State Parent Locator Service is successful in most of its efforts to locate parents, it is self-limiting by not using every available resource for obtaining locating information. Most locator services rely strictly on Social Security and IRS information. The utilization of Credit Bureau Data Banks is a relatively new idea and is being approached cautiously. Data Banks contain the most recent information regarding current address, employment and bank account data. Information from presently used sources is sometimes as old as 2 years. Further delays in starting your search can be caused by the tremendous overload of cases. Response times quoted are as much as 6 months. Only after all other resources have been exhausted, is a request filed with the Federal Parent Locator Service. Addresses are not difficult to ascertain, but this does not insure exact physical location for valid service of legal documents.

URESA

After finally obtaining an address you are able to commence a URESA action, Your success will be based solely on the level of reciprocity between the two states involved. Many non-IV-D states are experiencing resistance from total IV-D states. (See attached chart #1) There have been reports of complete rejection of URESA cases, attempts to charge fees of $60.00 per hour, assessment of fees ranging from 5% to 13%. Fees are assessed non-AFDC parents by the initiating state, and again by the responding state. These fees are being deducted from the child support collected, therefore further penalizing the custodial parent and children in their efforts of collection.

It is also important that parents are advised that their child support is put in jeopardy by URESA. A URESA order is, in effect, a new order and not bound by existing orders. The existing amount of child support can be modified or completely dismissed by the responding Court. This is usually due to testimony given by the defendant, who is present at the hearing. The plaintiff, on the other hand, has to rely on representation by the State Attorney's Office, who has no pertinent facts before him, other than the financial sheet filed with the petition and takes no steps to request additional information from the plaintiff. Child Support is rarely ever increased during this process.

URESA was not designed to address arrearages and therefore, they do not receive adequate consideration. Even so, the outstanding amount of arrearages is frequently allowed to be introduced into testimony by the defendant or his attorney, and at the discretion of the local Judge, be dismissed or reduced. Arrearages can be completely erased. This action can produce devastating effects for the custodial parent who has relied on the Courts to collect what would appear to be a lawful obligation. Under the Common Law, such modifications are allowed. A number of States have passed statutory restrictions on this power, thereby reducing or eliminating the judiciary's power to modify or dismiss arrearages. Federal legislation mandating all States to pass comparable statutes would significantly benefit thousands of children annually.

A reasonable response time to URESA cases is considered to be 90 days, but this again depends on the level of priority placed on incoming cases. Lack of communication and cooperation between states or jurisdictions have been known to cause delays of up to 1 year, which results in dismissal in many cases. Due to our mobile society, it is very unlikely that a child support evader would remain stationary for very long.

NON-SOLUTIONS

There is always the possibility of failing to acknowledge the severity of the problem and to hide our heads in the sand. By failing to clarify the original intentions of the IV-D program and continuing to disallow non-AFDC cases to avail the same services provided to AFDC, we could remain status quo. Attempts at some form of uniform payments or child support taxes would result in extreme opposition, and rightly so. This type of legislation lacks clear thinking and is not in keeping with our judicial doctrine of fair-play.

CONCLUSION

Although the problems of child support had primarily been considered a woman's problem, more and more with the introduction and popularity of joint custody, and the father being granted sole custody in some cases, we are now faced with a non-discriminatory problem.

Failure of remarrieds to enforce child support obligations further condones this crime. It is unfair to allow a step-parent to assume the financial obligations of a step-child. This attitude has been incorporated into the formulas used by the Federal Government in determining the Family Contribution regarding the financial aid to college applicants and eligibility for Welfare. The step-parents income is also included in the formula for the fees charged to non-AFDC cases under the IV-D program. The Federal Government, on one hand, is expending enormous amounts of money and energy in an effort to enforce child support obligations and on the other hand, encouraging and condoning the assumption of the biological parents responsibilities by the step-parents. This is contradictory to say the least and contributes to the overall continued delinquency of the child support evader.

The brunt of the financial burden continues to rest on the shoulders of the custodial parent as evidenced by the following:

1. sole support of the family
2. initiation of legal action
3. attorney's fees
4. fees for IV-D services

5. loss of pay or job - due to constant absences from work (eg. child-related problems, unnecessary court continuances, other child support related situations, etc.).

Serious consideration should be given to the proposals of a mandatory wage assignment in cases of delinquent child support and requiring all States to implement voluntary wage assignments. Following the established deductions for Federal Withholding Tax and Social Security, child support obligations could become an automatic deduction. The child support order would follow the obligor from job to job. By identifying the child support obligor through a Social Security number, employers would check with a centralized computer data bank before issuance of the first paycheck. Although there is the possibility of an evader changing his Social Secutiry number or having several numbers, the risk is relatively low. With the existing contact between the computer systems in key Federal agencies, such as IRS, Social Security Administration and Federal Parent Locator Service, and in addition Credit Bureau Data Banks, it is likely that child support evaders would be forced into meeting their responsibilities. These key computer systems would also be utilized by the child support clearinghouse.

The proposed recommendations of the Economic Equity Act are probably the strongest that our society can cope with at the present time. We, therefore, strongly encourage the passage of the Economic Equity Act.

TESTIMONY OF

RUTH E. MURPHY

REGIONAL COORDINATOR,
ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT

OVERVIEW

This testimony will outline the events that frequently occur in a child support enforcement action. The inadequacies of the current system are presented by means of a brief case history.

- Establishment of child support orders as a consequence of divorce
- Development of non-payment patterns
- Initial attempts to have support orders enforced
- Financial pressure created by lack of enforcement
- Interstate obstacles - URESA, lack of reciprocity between States
- Self-representation in child support cases
- Results - both positive and negative
- Need for stricter legislation and enforcement
- Recommendations relative to the Economic Equity Act

I wish to thank the Committee for allowing me to present testimony regarding Child Support Enforcement. Speaking from a personal viewpoint, I have experienced many of the inequities that exist. Because of the complexities it is difficult to adequately address every problem, but I will attempt to give you an idea of what one can realistically expect when trying to have a child support order enforced.

After several years of counseling, my first marriage ended in divorce in 1977. My former husband could not cope with the divorce and separation from family life. He, therefore, resorted to withholding child support in an attempt to force me into remarriage with him. When this failed he began other forms of harrassment, first directly to me, and then through my three children. Withholding of child support payments continued to be a major weapon.

Many times my financial situation worsened to the point where I had to depend on assistance from my family and friends. My salary of $10,500.00 excluded me from any help through Legal Aid or Welfare, and I was advised to retain an attorney. Since I had very little savings, the only other anticipated money would be their child support, if collected. I experienced guilt feelings about the use of my children's money to prod the Court into enforcing a child support order. At that time I believed that I had no other choice and retained an attorney, whose fee amounted to 1/3 of the child support collected. This was the beginning of many child support actions. It dawned on me that a pattern had begun that would continue for the next twelve years - until the youngest child came of age.

During the next two years, along with sporadic partial payments, there were many lean months where nothing was received. I felt hopeless dealing with an inept system such as we have. I was determined that I would not be driven to the Welfare roles, even if I had to work at two jobs. During this time my former husband persisted to harrass the family in many ways. As frustrated as I was, I continued to encourage him to visit his children. He preferred not to exercise his visitation rights on a regular basis, and therefore only widened the gap between him and his children.

In 1980 I entered into marriage with a man who has three children. We faced an extremely difficult financial situation with the responsibility of supporting my three children, his three children, ourselves, and an ex-wife, but we were determined that we could do it. There was always the possibility that some day the child support would be forthcoming. The failure of second marriages is often attributed to this type of financial stress. It was quite evident that with our financial outlay of totally supporting nine individuals, I could no longer allow the system to continue in the negligent way as it had for the past four years. There had to be a way to make the system work for my children.

There were many obstacles to overcome. I first wasted five months attempting an interstate action through URESA. During this time I was told by the State of Georgia that because my case was not a "new" case it did not deserve immediate docketing and, as a result of the delay, my former husband was able to move across county lines. This caused him to be removed from that jurisdiction and the case was dismissed. I was then advised to begin all over again. At this time arrearages had mounted to $3,700.00. He had made no attempt to pay child support for a year.

I was further discouraged by court personnel in attempts to deviate from the established URESA process. One visit to an attorney only reinforced my decision to proceed on my own. Because of my complex situation, I was told I could not expect the first hearing in less than six months. I first had to obtain my ex-husband's home address to begin any legal process. The personnel office of the U. S. Army Corps of Engineers, Savannah District advised they did not have a home address on file. I was forced by this negative response from a Federal Agency to file for parent locator services through the State. If I had not had an established case, a fee of $43.50 would have been charged for this service provided to Non-AFDC cases under the IV-D program. After locating my former husband, the first hearing was scheduled only two months after an attorney had advised that it would take at least six months.

With moral support from my children and my husband, I began to pursue the available avenues for self-education. Many hours were spent researching law books, writing and contacting agencies and organizations involved in child support enforcement.

With the permission of the Court, I proceeded to represent myself successfully at seven hearings in as many months. My former husband, on the other hand, could avail himself of the luxury of professional legal counsel.

During the following months a petition was filed by my former husband to reduce child support payments from $300.00 to $100.00 per month for three children. The Court, in its infinite wisdom, reduced the child support to $250.00 per month and gave him twenty-two months to pay arrearages totalling $1,100.00. This decision was not acceptable to him, and he appealed to a higher court. At the appeal hearing it was disclosed that my former husband had incurred legal fees of over $4,000.00 fighting an annual child support obligation of $3,600.00. It was clear that his reasons for not paying child support were not solely financial, but for other reasons as well.

My success was limited in collecting only a portion of the past-due arrears through a garnishment process. To avoid meeting his child support obligations which now include over $3,000.00 in arrears, my former husband quit his federal job of sixteen years and moved to another state. Now I am faced with a new challenge - a challenge that would not exist if it were not for the lack of importance placed on child support enforcement.

Although child support orders are legally binding contracts, they all too often receive less judicial enforcement than that afforded other civil debts, or for that matter, minor traffic violations. This lack of enforcement of child support orders, as exemplified by my own personal case, should not be allowed to continue. You now have the opportunity to help end this national disgrace by the enactment of the Economic Equity Act. I strongly urge you to vote for its passage.

Alexis Kursteiner 1804 Sycamore Valley Dr. July 3, 1983
Apt. #203, Reston, VA 22090

In September 1981, I left Michigan and moved to Virginia with my two girls, aged 11 & 13, because of my husband's continued abuse and threats. I retained a lawyer in Michigan who advised me to try to establish my six month residency in Virginia before filing for divorce. However, in late December my husband filed a divorce action against me in Michigan and in February 1982 the Friend of the Court (FoC) awarded me temporary custody and a weekly child support payment of $35/child. No child support was paid after this order, and after several contacts with the FoC a show cause hearing was scheduled in late May. At that hearing, the judge ruled that all arrearages would be held in abeyance until the final hearing in July, at which time the arrearages (approximately $1000) were forgiven and my ex-husband was ordered to begin paying child support from that time forward. Despite semi-weekly phone or letter correspondence with the FoC, I received only one child support payment until another show cause hearing was scheduled in January 1983. The January hearing was cancelled, which I learned of after the fact, and my ex-husband was issued a one month continuance contingent on his meeting his support obligation during that time. We were both also required to submit proofs of our income and expenses - a questionaire, pay check stubs, and previously filed income tax forms - by a specified date. Although my ex-husband did not pay the support or meet the timeline, he was granted two extensions. At one point, when I contacted the FoC to voice my dissatisfaction at the delay, he explained that he was allowing my ex-husband ample time so that he could make an equitable decision and asked if

I had considered reconciliation since I was having so much financial difficulty. Another show cause hearing was finally scheduled in April. At that time my ex-husband purposely did not appear in court even though his lawyer and mine were both present, and a writ of body attachment was issued for his arrest. Nevertheless, the writ was never served and my ex-husband appeared in court unbeknowst to my lawyer or myself the following week. He claimed he had never received notification of the hearing and was not found in contempt of court by the judge. Also at that time the judge, upon the FoC's recommendation, lowered the support payments to $25/week per child with an additional $20 per week to be paid toward arrearages which amounted to approximately $2000. This readjustment was made despite the fact that my ex-husband had reported a gross salary over double my gross salary and $9000 more per year after deducting his business expenses. Still no support payments were made except for one payment just before the girls left to spend the summer in Michigan. My ex-husband is currently $2300 in arrears.

July 1, 1983

STATEMENT OF MELISSA S. OWENS

I was separated from my ex-husband (Robert D. Owens) in July of 1978 at which time I was five months pregnant. My son, Ryan Steven Owens, was born on 12 November 1978. In November of 1979, my divorce became final. My ex-husband was directed, by my attorney, to pay $150/month in child support. These payments came directly to me. For the most part, these payments were late in arriving. Back in March of 1982, he started falling behind in his payments -- one to two months. As of the present time, he is seven months behind ($1,050). I have attempted to reach him (by telephone -- he had his number changed to an unpublished number; by mail -- certified mail was returned), but with no success. He recently sent me a brief note expressing his dilema over finances and how in debt he was and that he would try to send me some money at the end of June. There was no return address on the envelope, but it was mailed from Lesage, West Virginia (his mailing address is Annandale, Virginia). I have received nothing from him. He has never asked nor shown any concern for his son, whom he has not seen since Ryan was five months old. I am a single working mother whc has to watch every penny. I live from pay day to pay day, and Ryan's care while I'm at work runs me $200+ a month. Needless to say, his clothing and food costs set me back. He will be attending kindergarten in September of this year, and I desperately need financial assistance. I cannot afford an attorney, even though my divorce papers state that my ex-husband would be responsible for any legal fees required should he be delinquent in his payments. This occurred when I retained an attorney for my divorce. My ex-husband was supposedly responsible for one-half of the legal fees -- he did not pay promptly, so I was asked to pay his part until such time as he could pay my attorney, whereupon I would be reimbursed this amount.

Where do I go from here?

STATEMENT OF PAMELA L. CHAPPELL
6502 INSEY STREET
FORESTVILLE, MARYLAND 20747

MY DAUGHTER, SHANNON MARIE CHAPPELL, WAS BORN FEBRUARY 23, 1977. I WAS SEPARATED FROM HER FATHER, ROBERT KEVIN CHAPPELL, ON MAY 9, 1977. AT THAT TIME HE WAS ORDERED TO PAY $25.00 PER WEEK TOWARD SHANNON'S SUPPORT. ON MAY 9, 1979, I WAS DIVORCED FROM MR. CHAPPELL AND A "LIEN ORDER" WAS PLACED AGAINST MR. CHAPPELL'S PLACE OF EMPLOYMENT, UNITED AIRLINES. THIS "LIEN ORDER" WAS ORDERED DUE TO THE FACT THAT HE WOULD NOT MAKE HIS SUPPORT PAYMENTS. I PAID $800.00 IN ATTORNEY'S FEES. ON AUGUST 7, 1981, I AGAIN WENT TO COURT AND A "PETITION TO CITE FOR CONTEMPT" AND "PETITION TO AMEND LIEN ORDER" WAS PLACED AGAINST MR. CHAPPELL. ON JANUARY 14, 1982, A "SHOW CAUSE ORDER" WAS DRAWN-UP. THE ATTORNEY'S FEES AMOUNTED TO APPROXIMATELY $400.00.

I RECEIVED SUPPORT FOR APPROXIMATELY 10 MONTHS BECAUSE OF THE MAY 9, 1979 "LIEN ORDER". THESE PAYMENTS STOPPED AFTER MR. CHAPPELL'S EMPLOYMENT WITH UNITED AIRLINES TERMINATED.

ROBERT KEVIN CHAPPELL IS A VETERAN AND ATTENDS SCHOOL ON THE GI BILL. HE CLAIMED HIS DAUGHTER, SHANNON, FOR APPROXIMATELY 1 YEAR BEFORE IT WAS DISCOVERED HE WAS RECEIVING AN ADDITIONAL $48.00 PER MONTH FOR HIS DEPENDENT CHILD, WHOM HE DID NOT SUPPORT. I TOOK ACTION AND FILED PAPERS WITH THE VA. THIS WAS NOT AN EASY TASK. THE VA GAVE ME MANY OBSTACLES, AND WITHOUT AN INSIDE SOURCE AT THE VA CENTRAL OFFICE, I WOULD

NOT HAVE RECEIVED ANY SATISFACTION. PLEASE NOTE THE ATTACHED QUESTION'S THAT THE VA SENT TO ME AFTER I HAD ALREADY SUBMITTTED THE APPROPRIATE APPROVED FORMS. THESE QUESTIONS HAD NOTHING TO DO WITH THE FACT THAT THE COURT ORDERED MR. CHAPPELL TO PAY CHILD SUPPORT. MR. CHAPPELL RECEIVED FUNDS FROM THE GOVERNMENT ILLEGALLY.

MY NEXT STEP WAS TO LOCATE MR. CHAPPELL'S WHEREABOUTS. HE IS LIVING IN SAN FRANCISCO, CALIFORNIA, BUT MOVES FROM COUNTY TO COUNTY. BEFORE PAPERS CAN BE FILED, I MUST KNOW HIS EXACT WHEREABOUTS. THE ONLY SOLID ADDRESS I HAVE BELONGS TO HIS PARENTS, WHO SYMPATHIZE WITH ME, BUT LOVE THEIR SON...NEED I SAY MORE.

ALL THESE OBSTACLES AND LITTLE OR NO HELP FROM THE GOVERNMENT (I DID TRY THE IRS, NO ONE THERE KNOW OF ANY WAY TO HELP), OR SOCIAL SERVICES (I HAD HELP WITH PARENT LOCATOR, BUT STILL NEEDED AN ATTORNEY) HAS MADE ME VERY DISCOURAGED AND TO THE POINT OF GIVING UP......BUT YOU SEE, I CAN'T. I HAVE A 6 YEAR OLD DAUGHTER TO RAISE, EDUCATE AND GIVE THE BEST LIFE I CAN OFFER. I CAN'T DO IT ALONE. INSTEAD OF HELP, I GET MORE OBSTALCES (SUCH AS THE 5% TAKEN FROM CHILD SUPPORT CHECKS RECEIVED AT THE P.G. COUNTY SUPPORT COLLECTION UNIT). THIS FEE SHOULD NOT BE PAID BY OUR CHILDREN. THE DELINQUENT PARENT SHOULD HAVE TO PAY. WHY SHOULD OUR CHILDREN BE THE ONES TO SUFFER.

Regional Office

211 Main Street
San Francisco CA 94105

Veterans
Administration

NOV 26 1982

In Reply Refer To: 343/212A
CSS-557-06-9523
CHAPPELL, Robert K.

Mrs. Pamela L. Chappell
6502 Insey Street
Forestville, MD 20747

Dear Mrs. Chappell:

We need more information before we decide whether to pay you a part of Mr. Chappell's benefits.

To help us make a fair decision, please use the attached form to give us the following information:

1. Are any of the veteran's children living with you? If so, list their names.

2. Give the names and relationships of anyone else living in your household.

3. Show the average monthly income for yourself and the persons listed in Items 1 and 2.

4. Itemize the monthly living expenses for your household.

5. Show the value of your assets as follows: Cash____________ Stocks and Bonds____________ Savings and Checking accounts____________ Real estate (not your home)____________ Other____________.

6. Itemize your debts by type and amounts owed.

7. How much has the veteran contributed to you or for the children each month during the last three months?

8. How much do you feel the veteran should contribute each month?

9. Why do you feel he is able to contribute this amount?

If we do not hear from you within 30 days, we will make our decision on the evidence we have.

Sincerely yours,

T.A Verrill

T. A. VERRILL
Adjudication Officer

Enclosure:
VA Form 21-4138

I am a single parent of four school age children. I and the sole financial and emotional support for these children, who are aged 13½, 12, 10½, and 7. Their father has not seen them since October 1979. He has written or called various of them approximately six times since then. For the first two years after we separated, he sent the support payments of $112.50 per child per month ($450) which was stipulated in the separtation agreement. During 1980 and 1981, the payments became irregular and/or incomplete. In September, 1981, he wrote a rambling, incoherent letter announcing that the only way he could "get to" me was to stop sending support payments. Threats of legal action brought a payment in December, 1981 which brought the payments up to date through October, 1981. He has not sent any money since then. In March of 1982, I obtained (without benefit of a lawyer) a judgement for the arrearage. In March of 1982, he quit his GS-12 job with the General Services Administration to avoid garnishment of his salary. Evasive and lying responses to my questions by his supervisor, colleagues, and the GSA legal counsel's office ensured that my attempts to garnish his final paycheck and his retirement contributions would fail. My paperwork was two weeks too late in each case. In the spring of 1982, a series of harrassing phone calls were traced to the telephone he had at his accommodation address in Alexandria, Va. He was arrested, and after telling the police that he planned to move to West Virginia, was released upon his own recognizance. He failed to show on the court date (I spent a full day of annual leave), and was fined $750 in absentia in June, 1982. On July 4, 1982, he was seen sitting in his car across the street from my house. When the Falls Church police were called (I was somewhat afraid, as he had previously made threats against me and threats to take my son), instead of picking him up, they merely told him to move on! The support arrearages now total almost $10,000, the man is self-employed as a home improvement contractor (unincorporated, unreported) and my children are suffering. Since last fall, two ladders, the wheelbarrow, the sawhorses, the insecticide sprayer--but none of my brother's extensive carpentry tools--have disappeared from my unlockable garage.

Most recently, MasterCard, having lost the record of my change of status and account, attempted to collect over $3200 from me when they could not locate my ex-husband. I was compelled to appear in court twice (taking annual leave each time) to protect by credit rating and myself from his debt. The resolution (non-suit for me and judgement against him) leaves me vulnerable should the company not be able to collect from him.

I have not attempted another judgement for the last fifteen month's support payments. When he is served at the Alexandria address, he merely moves to his West Virginia address (Hedgesville, about 2 hours from DC). My attempts to learn whether the W. Va. courts honor Virginia judgements have met with little success. The staffs of the W. Virginia congressmen whom I have contacted have been of little assistance and it appears that I would have to pursue him through the West Virginia court system. At this time, I do not have the emotional, financial, or temporal resources to do this.

Statement of: Elizabeth (Cricket) Moore
311 N. West St.
Falls Church 22046

"I'm sorry, but we can't go to see 'Return of the Jedi,' kids. We don't have the money." Who would ever have thought I'd be saying this to my children when every kid in the world will see this movie?

Today's date is June 25, 1983. I have not received the $200 child support check I have been getting this past year. This payment is due on the fifth of each month, being channeled through the J. D. court with Linda Bozoky being the recipient. From the time my former husband, David Church, was ordered to pay the $200 sum, he has been constantly late in his payments. There has been continual correspondence with Linda Bozoky, attempting to retrieve the needed income. I am now supporting my daughters, Kim and Heather, on the gross amount of $16,100 annually. The net figure would be between $12,000 and $13,000 which is used to cover the following expenses: $500 rent for the apartment, a $138 car payment, Choice, Penny's, doctor and dentist bills, a college loan, gas and food payments. It is no wonder that the "Jedi" had to be completely ignored for the time being. The only bills that have been taken care of this month have been the rent and the car. What money is left has gone to food. Thank God for the swimming pool. It has been the main source of entertainment for the children. The reason for the stop in child support was brought on by my action in court last month. David, the children's father, was denied visitation. The reason for this ruling: David had physically attacked his girlfriend in the presence of the children. Needless to say, visitation had to stop.

Since this has transpired, I have had threatening phone calls: "I'll blow you away with a silencer." "Why don't you and those f---ing kids get on a boat?" After having been physically abused for years, there is no doubt in my mind that it will be continued.

I have been concentrating on finding work with more money, and have even considered relocating (New Mexico). There are many things to be taken into account at this time. I don't know how or if this organization can help but, if not for me, I will devote time to help other women, as I have had a six-year struggle. I don't cry anymore. I channel my anger in other ways -- working, playing, writing, sewing, and continual busyness.

My priorities now are:

1 - More money in a new job
2 - Selling joint property
3 - New location

I hope, for the children's sake and mine, that I can continue to strive for my goals. I will not know until July 14th, court date for show cause, if I will receive any child support. This is a long time to wait to pay all of the necessary bills.

Many decisions must be made based on the outcome of this date. I pray for all involved that they will be the right decisions.

Statement of: Christine Stegall
4606 John Hancock Ct.
Anndale, VA 22003

A KID'S-EYE VIEW

by Elaine M. Fromm

The questions began at about the age of four. He asked, "Mommy, how come we don't have a daddy like the other kids do?" My response to him was, "You do have a daddy. He just lives somewhere else." Some time later the queries began again, but what more could I say? Could I tell him that his daddy ran away and apparently didn't care about him? Never would I let this child hear that he and his siblings were unloved and unwanted.

As the years went by, he and his brothers and sister had more questions from time to time. "What does our daddy look like?"; "Why doesn't he come to see us?"; "Why can't we go to see him?"; "Why are we so poor?"; "Why do you have to go to work all the time?"

They studied his photo. They sought that face on every man in every public place.

The questions about their father ceased after his sister had pleaded, "Can't you buy us a new daddy?" and her brothers had given her the news that the kid next door would share her daddy with them all.

"I hate wearing these old patched clothes to school", he said, "can't we buy some new ones?" He ached for normalcy. I ached with the inability to provide that normalcy. Adequate food, shelter, clothing, and medical care were financially unattainable. He and his brothers and sister walked in the snow to school wearing tennis shoes with holes in them and pants with patches on the patches. They never knew that I had stolen food for the table. They did know the shock of having their family split up among friends when their mother could not find affordable housing; and the shame, when it was finally found, of housing with a slum lord. They tolerated the humiliation of peer ridicule at their material deficiencies.

Soon he was ten and got his first job. It was gardening work and he was hired because he was big for his age and looked older. He brought home a couple of dollars each Saturday. With the money he bought shoes and pants. Then came another opportunity -- a newspaper route! Now he was making lots of money. Now he could get a bike! We shopped at Goodwill and he bought his bike.

His sister and brothers followed in his footsteps.

They took jobs in gas stations and restaurants and worked long, hard hours to buy their clothes and school supplies. They could buy a few luxuries now, and help to fill the family refrigerator. But they had little time for teen-age social lives or after-school activities. Finally, I told them about their father's desertion and my unfruitful attempts to collect child support.

Twenty years have passed since that first question; the kids are grown. In their childhood they knew the suffering of abandonment and non-support; in their maturity they have learned the truth about governmental negligence. Now the questions are, "How could the government, whose purpose is to protect all citizens, allow these atrocities and what can we do to rectify the situation?"

Though his life has long since changed dramatically, he will not forget the horrors of his childhood. In his manhood, he and his siblings are making their own contributions to the Organization for the Enforcement of Child Support and to society.

Statement of: Marian M. McNichol
7225 Jillspring Court
Springfield, VA 22152

I was born in Honolulu and raised by my Hawaiian-Portuguese Father and my California born Irish-Indian Mother. Although my parents were divorced, I had a happy childhood, living with both parents at different times and with my Hawaiian Grandmother.

At eighteen I married a man in the Air Force and started raising a family. We had six children, one of whom died at the age of seven weeks in Japan. We were shuffled around by the Air force and the pressures of a large family and two jobs forced my husband into civilian life. When the children were small hedecided to go back to school, using his VA benefits.

I had previously taken three years of art studies and one year of early childhood education and was able to start a child care business in our home. We had a good life - the children were happy and healthy and were never in any kind of trouble. They attended parchial school in Alexandria and got good grades.

In 1975, we decided to move back to Honolulu and I went ahead of my husband; he was to join us after he got his business degree.

In Honolulu, the kids and I got a condo and I worked as a supervisor in a pre-school and taught art. I did not know my husband had been running around with other women and had stepped up his drinking habits until he joined us and started in with the recriminations. The verbal abuse started then. I realize now he felt inadequate so he had to act the big shot - putting his family down in order to boost his ego and feel less guilty. I was a door mat, believing everything he told me, that I was stupid and ugly and a failure as a wife and mother. (You name it - he said it.)

He left for Virginia late in 1976 to take a job as an insurance salesman. In January of 1977, I returned with the children, in an effort to try to save our marriage. I got a job at a 7-11 Convenience Store and was promoted to assistant manager within three months.

The abuse got worse. Mac overdrew our account, picked on me and the children and it got to the point where I was afraid to come home at night because I'd hear how rotten I was until he passed out. The physical abuse started and I finally got enough courage to start fighting back.

I was then thirty five. I moved into the twins' bedroom, bought an old car and insurance and learned to drive. I got my own checking account so that the rent checks couldn't bounce and found myself a boy friend - one who boosted my ego instead of tearing it down - and started my long fight through the courts.

It was only after Mac had socked one of the twins in the face, and left a black eye and bruises (after several convictions of wife abuse) that the judge put him out of our home. I had the lease put in my name so that he could not come back without trespassing. The judge issued a court order stating that Mac could not visit the minor children unless he posted a $5oo bond to insure he would not injure them. I was awarded custody and Mac was ordered to pay me $400 monthly child support. Our older son graduated from high school and the girls were fourteen and thirteen (twins) - and Phillip was eleven. I was working 6 - 7 days a week at the store, trying to keep the kids fed and the problems of non-support and trying to be a mother and father began.

I also had to take the children to family therapy and started in with group therapy trying to feel better about myself. But I found out that while I felt inadequate, everyone put me as the strong person - the leader of the group - because of the way I'd plodded ahead and resolved many of the issues.

The kids and I managed to keep laughing at the inequities of life - it sure beats crying although we did that too.

At any rate I have gone to court more time than I can keep track of - sometimes 6 - 9 times a year - it took me over a year to save up for and get my divorce. The court awarded me $100 a month alimony. At times my ex would disappear for nine months without any support at all and I would have to track him down with the aid of police officer friends who had "connections" in Prince William County. When we are able to locate him it sometimes takes months to get the warrants served. And then the phone calls resume. I mustn't persist or he will sue for custody of Phillip, and skip to another state. Mac has been jailed several times for abuse and non support - .

I have never been able to afford a lawyer and have made "too much" money to qualify for legal aid. Tell me how clearing $9,000 - $10,000 a year with four children in high school and one in college is too much money!

I did not qualify for foodstamps or welfare and wouldn't accept it if I did - as a matter of principle - I was able to work - I did have to sell my grandmothers' silver, jewelry and one karat diamond to help offset expenses in raising the kids and at [illegible] times my husband's family and my dad helped when we had financial emergencies.

The girls have graduated and moved out and are working and saving towards college. Phillip (now 15) and I share a modest 3 bedroom townhouse and I drive a 13 year old car. I have been accused of having "delusions of grandeur" because I insist on the boy having medical and dental care and give him fresh fruits and vegetables. My ex tells me to send him out to "work".

Mac currently owes me approximately $3,000 through the Juvenile - Family Relations Court and I hold a back jugement of $4300 (support) which I understand must be collected by the District Court through garnishment of wages. Last year when we went through that hassle my husband switched jobs and it took me some time to locate him (again through friends). We went to court in April and go again next month in July.

My ex tells me I will not get the back support because I would take Phillip to Honolulu to visit my father (who is dying of cancer) and I shouln't use child support for that purpose. He forgets I sold all my valuables to pay for the kids' support, when he wouldn't.

As far as the courts go, I wish there were more counselors available to tell me which avenues to pursue with the limited resources at my disposal. (I am now working two jobs to keep me and my son in our pleasant neighborhood and quite frankly, I'm pooped!)

I realize that I've been one of the lucky ones - a survivor - I've managed to avoid the welfare trap - and when one door closed, another opened - a cliche' but true. But there ought to be some way to protect the kids' rights and my own too, without furter hassle from my ex husbands' irresponsibility and disregard. At times it has seemed that the man has had more "rights" than his minor children . Why? I didn't have them by osmosis, he is their father and one way or another there must be a way to force him to own up to his responsibility and obligation to his family.

MARTHA BAKER MALLARDI - OECS, [redacted]
P.O. Box 5239
Hyattsville, MD 20782
(h) 301/559-3172 (o) 202/462-8606

NON-AFDC/State Represented
P. G. County, Maryland

CASE SUMMARY ( )

Upon Petitioning the Non-Custodian Parent, herewith referred to as defendant, into the Montgomery County Courts, the Master would only register the "Foreign Decree" (Child Support(CS)/Divorce Order and set arrearages of nearly two years. At the time I was employed and represented by Attorneys who requested the Master to make the defendant pay some monies for CS, fees incurred for petitioning, a wage lien or assignment, a contempt finding and/or modification of monthly CS amount (then being $105 for both children) since the Master knew of the defendant's steady employment income. (A "Smack on the Hand" was rendered and the case file was lost/never signed by the Judge. My persistance found a clerk three months later who then had it signed but told me I must repetition the defendant for any enforcement of this registered Montgomery Co. Order.)

I applied to Social Services for aid by filing forms, interviewing, etc., only to be told by a worker I was ineligible for services other than the 2 time $50 worth of food stamps - based on the scales set for eligibility. (CS Order amounts were tabulated into my income tho no monies were being paid, CS Enforcement forms were never processed.)

I wrote to Governor Hughes - asking that he review the criteria for eligibility for services and happenings in CS hearings in Montgomery Co. Courts. His timely response referred me back to the same agency (Soc. Serv.) who then had me again, fill out the same forms as I had done in my initial outreach for services, but this "red-light" referral found me eligible this time for Emergency Funds and States Attorney (SA). (I wrote a letter to Soc. Serv. Supervisor who admitted my prior application had not been properly handled but I could spend no more food from the table to appeal the issue as he suggested.)

My case has since been handled by the State's Attorney's Office, Upper Marlboro, MD (SAO) who has represented me in 7 hearings since our registration of the CS Order into Prince George's County.

The first of the P.G. County hearings was held July 13, 1982 - ending with the registration of the Mont. Co. Order, A Pendente Lite Order of $200 monthly CS, and a rescheduling for August 3, 1982. (No CS monies were paid, the assessed arrearages of the Montgomery Co. Order were totally dismissed, and the defendant was only scorned by the Master for his behavior. At the request of the Master, this case was only to be heard by him.)

At the second hearing in P.G. Co., (August 3, '82) the defendant continued to appear proper person - tho the Master had suggested his attaining representation. Defendant told the courts he was then unemployed with $150 weekly income and said he had only paid $50 on the Pendente Lite Order. The Master then set a permanent CS amount at $300 monthly plus $50 to be paid toward arrearages. The Master again, told the defendant to attain representation and continued the case until September. (No CS paid, SA request for Wage Lien/Unemployment Garnishment and any other relief denied.)

September Hearing was rescheduled for October 29, '82, where defendant again, appeared proper person and was found in contempt of court for not having paid CS other than one $50 on the Pendente Lite Order. The Master sentenced the defendant to 179 days in the House of Corrections with a $2000 bond and purge figure of $1,000 CS. (The defendant bonded for $200 - 2 hours later, and no monies for CS were paid - No Work Release imposed.)

Our fourth hearing was set for November 22, '82 to Show Cause Why Defendant shouldn't commence to serve contempt order. The defendant's Public Defender (PD) entered a plea of indigency, and their request for another continuance was acknowledged. My SA argued against the continuance because defendant did not comply with CS nor file exceptions. (SA's pleas were ignored as was my request for unemployment lien - defendant did not meet MD criteria for PD of less than $125 weekly income - No CS relief was rendered. --"The man is literate and does not belong in the House of Corrections" (Judge McCullough) = No incarceration with Work Release.)

Our fifth hearing was held on January 3, 1983, where arrearages were assessed at over $2000. The defendant paid $765 CS on purge figure, promised to comply if Master would continue case, Sentencing was not imposed and continuance granted til May 16, 1983. (Again, no implementing of lien or tax interception* tho Support Collection Unit (SCU) and SA met administrative process requirements..."We have no budget for NON-AFDC tax interception cases" (HHS Baltimore.)

Defendant petitioned me to court for Modification of CS amounts (April 20, 1983) where I submitted Federal Scales, Personal Financial Statement and Estimates of Ability for both to pay CS based on his plea (minimum wage) and my income. (This hearing was the only one held by a different Master who acknowledged all and denied the Modification.)

Our 7th P.G. Co. hearing was held on May 16, 1983, where defendant paid $1,620 and came into compliance with CS--pattern established to pay upon threat of incarceration. Imposition of Contempt Sentence again continued and defendant promised future compliance. (SA's plea for wage lien was denied, and case was continued to August 1, 1983.)

I have cooperated with the Sheriff's Department in Upper Marlboro with personal service for the second time--this time with a Wage Lien Petition pursuant to Article 16 5b, to be heard at hearing August 1st.

In the Montgomery and P.G. County Courts, I will hope that it will not take a "red-light" to clarify that the issue is CHILD SUPPORT ENFORCEMENT, THE CHILD CANNOT EARN A LIVING --THE PARENT CAN AND MUST SUPPORT THESE CHILDREN UNTIL THEY CAN. There is presently good legislation and laws but there is no monotoring system at the Judicial level on the implementation of them or decision rendered by Judicatures -- such as custodian and non-custodian personal problem vs. child survival.

Through my experiences at the Agency level (Soc. Serv., State's Attorney, etc.) I hope that future NON-AFDC clients seeking CS will be rendered the same avenues of aid that are available for AFDC cases--Better Funding for NON-AFDC cases could be a revenue asset also as in State monies sought after in the Welfare cases--the Non-AFDC cases end up sucklings at some point, i.e., Emergency Check, Food Stamps, etc. while the non-paying parent feeds also from Unemployment, etc.

* I cannot express succinctly the Blood and Guts and Food from the Table spent in my personal pursuit for CHILD SUPPORT ENFORCEMENT at all levels. As in my alternative to the Court Process...Steny Hoyer's Office was able to have the Maryland Procedure of Federal and State Tax Interception investigated only to find improper utlization/ budgeting barriers for NON-AFDC cases.

The Crunching Economic Spiral is ever present in the Child Support Issue - There is a need for Penalties and Merits to be Federally imposed (FUNDING and FINES) to States that Do and Do Not Comply with CHILD SUPPORT ENOFRCEMENT laws for the NON-AFDC as well as AFDC cases...for the NON-GOVERNMENT EMPLOYEE as well as the GOVERNMENT EMPLOYEE.

I have come to know my own 'power to be heard' of these problems in cooperation with all of all. Less the intimate experiences with peoples involved, I herewith submit to you, the Senate Finance Committee on the Economic Equity Act, another "red-light" case study and am proud to support Title V in hope for your continued interest in OUR Children, and remain,

Respectfully,

Statement of: Lorena L. Morelock
9927 Oak Plank Ct.
Oakton, Va 22124

This father left the family in the summer of 1976. I filed a motion for support shortly after he left. I did not know his whereabouts, but was told by a third party he was in another part of the state. This is where I had the subpoena sent. It was returned with the notation that he was not in that area (his cousin was the sheriff). The judge in the county where I resided threatened me with contempt of court if I returned in two weeks without a "good" address for him. I went back and dropped my petition. I had no intention of going to jail or facing a fine for trying to obtain support for my daughter simply because I could not drag her father into court by his neck. I filed a second petition for support while I was in another state, he was living in the northern Virginia area at that time. I was able to get him into court and was awarded $160.00 per month plus medical expenses. This support was paid ONLY after my return to this area five months later. He has yet to pay the medical expenses. He would generally pay one month and then not pay until I obtained another "Show cause". I was in court on the average of once every three months. The people in the support section of J&D court for this particular county showed great displeasure in my insistance for court dates to try and obtain support for my daughter. Finally, in late 1978 I was no longer able to work and I had to apply for welfare until my Social Security was approved. I again petitioned the court for support in 1979. At that time the support was upped to $225.00 per month with me paying the medical bills. He never paid. I located him again and went to the state support enforcement agency. The individual I had to see was very upset that I appeared without an appointment.

I asked her to get a subpoena as soon as possible because I knew he would disappear again. She said she would handle it her way and she had no intention of speeding things up because he had rights under the law to be notified after he had missed (I believe) three payments. So I petitioned the court myself(the case was transferred to the Circuit Court by my child's father on appeal of the $225.00 amount that was previously ordered.) I was able to get him before the Circuit Court judge in August 1980. He appeared with his expensive attorney ($175 per hour!!). I of course could not afford an attorney, and so he managed to get over $1,000 dropped from the arrearage. Without my knowledge the state support enforcement had my case transferred back to juvenile and domestic relations court the next month. The state enforcement individual I had to deal with informed me " she was a personal friend with judge ______ and he told her how to get the case back into his court. I was informed by a friend who worked in the J&D court that my attorney was cursing me out because I had already taken my husband to court the previous month. The attorney was not MY attorney but represented the state enforcement agency. I was unaware that when I signed up for welfare that I had also signed my rights away regarding anything about my daughter whatsoever!! I might add even though I had supported her while most of this arrearage was accurring I had actually signed up my rights to any of this arrearage This was never explained to me. Therefore, I received nothing but a hard time for all my efforts. Until the law is changed giving back the government ONLY what they give to me I will refuse to put her on welfare. I have had a long tangle with my eligilibity workers over this. They cannot understand why I would deprive her of $73.00 per month when I eventually hope to receive $225.00 owed to me by her father!! After joining The Organization for the Enforcement of Child Support they gave me the courage to fight again. I located her father in yet another state and the case is still pending on the arrearage. I did receive two months support though. My child's father claims to love" her and would like custody. He believes he is a fit and proper father. How does she feel? "If daddy loves me he would help support me and visit me"

Written Statement for the Record on
Hearings Held June 20-21, 1983 on
S.19, The Retirement Equity Act of 1983, and
S.888, The Economic Equity Act of 1983

For the Senate Committee on Finance

By the Subcommittee on Single Employer Plans
(Excluding Title IV) of the Pension Committee
of the American Academy of Actuaries

Lowering the Age Limitation for Minimum Participation Standards

This provision, contained in both Senate bills, reduces the age limit for required participation from 25 to 21. The change would increase the cost of pension plans but would provide only modest or no benefit improvement to plan participants. Those instances where no benefit enhancement would result include:

(1) any employee hired after age 24;

(2) any employee hired before age 24 who is covered by a plan that retroactively grants benefit service from date of employment, upon initial participation in the plan; and

(3) any employee who retires or terminates from a plan after obtaining the maximum benefit service allowed under the plan.

On the other hand, this provision would increase the cost of operating and administering pension plans as a result of the following:

(1) the earlier accrual of benefits;

(2) the additional number of employees terminating with deferred vested benefits;

(3) the expansion in employees considered in calculating PBGC premiums;

(4) the increase in participants who must receive summary plan descriptions and other plan information; and

(5) the added administrative, auditing and actuarial work due to the increase in participants covered by the plan.

The number of people benefiting from this provision and the relative size of the improvement may not warrant the added expense. Consideration should be given to the cost-effectiveness of this proposal.

As an alternative to the language in the bills, it might be equally acceptable to retain the age 25 participation requirement but to require retroactive granting of vesting and benefit service to age 21. This proposal will avoid the cost increases noted in items (2) through (5) above.

Treatment of Maternity or Paternity Leave

This provision requires the crediting of service during certain maternity or paternity leave. Under S.19, credit would be granted solely for determining whether a break-in-service occurs. However, the actual basis for calculating hours of service and the length of leave that would be permitted are not indicated, but need to be clarified in any final version of the bill.

S.888 provides for the accrual of benefit service at the specified weekly rate of 20 hours of service for up to 52 weeks of leave. Thus, unlike S.19, this provision of S.888 grants pension benefits during maternity and paternity leave.

Pension plan cost would rise marginally as a result of this provision due to the increased benefits to some participants and due to the added record-keeping needed with respect to employees absent on maternity/paternity leave. Once again, consideration should be given as to whether or not the small degree of benefit improvement is worth the admittedly modest additional expense.

Increase in Allowable Mandatory Distributions from $1,750 to $3,500

This provision of S.19 reflects the change in the Consumer Price Index since the $1,750 level was set in 1974. The effect of the change would include a very modest reduction in the costs of plan administration since more benefits would be paid out as lump sum amounts. It would be appropriate to consider the automatic adjustment of this limit by an appropriate index.

Requirement to Provide Deferred Annuity to Spouse of Participant Who Dies Before Retirement After Ten Years of Service

This provision of S.888 would require that pension plans provide for pre-retirement spouse's benefit coverage in the event of a participant's death after ten years of vesting service. The commencement of benefit would be deferred until the spouse's annuity start date.

This change would give rise to a slight increase in cost of plan administration and record-keeping. In addition, plan costs would increase somewhat if the benefit is provided on an employer-pay-all basis.

ERISA permits the election of one of three alternative vesting schedules - 10-year cliff vesting, 5-through-15 year vesting, and the rule of 45 vesting. Consideration should be given to modifying this provision so as to correspond to the permitted vesting schedules allowed under ERISA.

Retroactive Application

The legislation should clarify that retroactive application of certain provisions is not contemplated. For example, it would be difficult or, perhaps, impossible to determine the required service credit for maternity/paternity leave that a current participant experienced many years ago.

PENSION COMMITTEE

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Newport, Oregon
June 7, 1983

The Honorable Robert Dole
U. S. Senate
Washington D. C.

Your Honor:

This letter is concerning the Senate Committee on Finance Scheduled hearing on the S. 19-80 (5) Protect the Pension benefits of a surviving widows. June 20 and 21. S.888 (5)

1. My husband was a "Teamster" for over 30 years, and I am his widow. My spouse retired in June of 1974 and passed away in Nov. of 1974

2. But I as his widow was not allowed to claim my "Widows Pension" through "No Fault of Our Own" even though he had signed the one and widows option that they offered at that time.

3. I am still legally entitled and qualified for the Widows Pension by the New Labor Laws that were passed by Congress in Sept of 1974 that went into effect at that time but I still have not been able to collect any of his pension, except for a few months I recieved $177.

3. Up till Sept of 1974many widows lost their pension because of the "Bad Labor Law"- it contained in the widows Option, which required that a husband had to live 2 years after he retired. in order for the spouse to recieve he pension. Teamsters had apparently put the 2 year clause on the pension with full knowledge, as it was common knownby all, that many retired passed away soon after retiring. I ask Teamsters why? the 2 year requirement, and they never did give me and answer so thus i am left to conclude that it was put on the pensions apurposely to 'Rip Off' the pension from the widows.

4. My spouses pension was about $350 dollars a mo, at the time of his retirement and I should have recieved over $200 a month on Dec. of 1974 but now the Teamsters are spending my husbands pension which they have no legal right to. My husband worked hard for his home and family and we worked as a unit. We had planned to have his pension as part of our retirement of course, as I cared for our elderly and never worked out .

5. What advantage is it to have the so called highly advertised pensions for your old age to help supplement S. S. if it can be so easily rip off at will by some unscrupulous scemer. I have and aged father of 90 living with me . We live on S. S. in a low rental wi with an uncertian future.

6. I still quailify and am entitled to my Widows Pension but what can I do? Part of my husbands raise of wages was put intothe Pension Fund and never taken out.

Thanking you,

Mrs. Emma E. Sumner

140 S. N. E. 60Ave.

Newport, Oregon 97365

TRI-COUNTY CHILDREN DENIED SUPPORT
11322 S.E. MILWAUKIE, OREGON 97222 659-8149

Senator Bob Packwood
Senate Finance Committee
United States Senate
Washington D.C. 20510

June 24th,1983

Dear Senator Packwood:

I am writing this letter of appeal in representation of our 137 members of Children Denied Support.

We understand you are on the committee on finance that will be considering S-888 and S-19. We hope that you will see the need for any assistance bills such as these will give to the single heads of households,already struggling and trying to survive these bad economical times.

I'm sure you are aware of the magnitude of child support cases and the problems surrounding the collection of these obligations. There is such a great need for more priority on these issues and an even greater need for the enforcement of the already existing laws.

Our members feel you have a unique understanding and concern in issues concerning the suffering or needs of children in these situations and we hope that in considering the passage of these bills you put the effect it has on securing our children's futures,first.

Child care has too long been a detainment on mothers/fathers working singly to support their families and it's time our state and government representatives took a good look at the real problems causing state and county deficits, because of the greater need for dependency on public assistance.

Give responsible parents the tax breaks and enforcement they need.
Thank you for your concern and all your efforts to assist us in our strive for better and more effective legislation.

P.S. I have also advised our members to write you on an indiviual basis with their feelings on these bills.

Very Respectfully Yours,

Jackie L. Taylor

Jackie L. Taylor
Director/Planning Coordinator
Children Denied Support(Tri-County)

INEQUITIES OF FEDERAL PENSION LAWS CONCERNING WOMEN JUNE 20 and 21 (Regarding payment of survivor's benefits to a vested participant's spouse)

June 13, 1983
515 Gallows Hill Rd.
Cranford, N. J. 07016

Honorable Robert Dole
United States Senate
Committee on Finance
DS-221 (formerly 2227)Dirksen
Senate Office Building.

Dear Senator Dole,

I am writing to you as I understand you are chairing a meeting to focus on pension problems of women and also because you have introduced the Retirement Income Equity Act(S19) to the Senate.

While I personally have a problem with what I feel is an unfair, if not illegal, loss of survivor's benefits of my husband's pension, I am writing in the interest of all women who face the same situation.

My husband has 31 years of service with his present employer. The company has been in financial difficulty for almost ten years and with the change in the pension laws in recent years the company is now allowed to terminate the existing plan and take the overfunded surplus cash back into the company for general operations which at last publication was well in excess of 250 million dollars.

I recognize the company's right to utilize these surplus funds, but I feel that at age 52 the elimination of survivor's benefits is grossly unjust. In my husband's company alone there are thousands of women in my age group.

Even with the elimination of the existing retirement program, my husband will remain vested and I feel there is a moral responsibility (if not legal) on the part of the company to continue to provide the payment of survivor's benefits to a vested participant's spouse.

When working for a large corporation a man is requested to move several times during his career. In my family's case we have moved eight times at the company's request. Because I am a teacher in a very specialized field, I have always been able to work, but I have never been able to work in one place for a sufficient length of time to earn any pension benefits. I had always felt, I would have the 40% of my husband's benefit program.

I feel it is terribly unfair that women can be denied this benefit because of poor management by a corporation. I can understand the need for the company to terminate the present pension plan, but I cannot understand Federal Laws that would permit a company to eleminate survivor's benefits for all their employees under 55 years of age regardless of years of service.

While I realize a financially troubled corporation needs all the funds available, the small amount required to maintain the survivor's benefits to vested employees survivors is a minimal amount. In fact in a deposition made by Mr. L. Brennan, an actuary for Kwashu Lipton to the Honorable Justice Fredrick Lacey of the United States District Court State of New Jersey, he stated:
(dated 11/7/82-C.A#81-3377-page 6)

> "7.The unaccrued spouse's benefit: Turning to the question of unaccrued surviving spouse's benefit, it should be noted that the survivor's benefit, currently provided under the Plan is far in excess of that required by ERISA and, whether or not the Plan was terminated, could be reduced(if not yet accrued) to the required ERISA minimum. However, annexed

hereto as Exhibit II is a September 27, 1982 letter from Prudential which agrees to make the existing survivor's benefit available to Plan members who will not yet have accrued it by the Plan termination date at a cost of only 1/24th of 1% per month of coverage."

Based on this extremely minimal figure, it is inconceivable that a company would withhold the survivor's benefit and it is for situations such as this that laws need to be passed requiring the payment of survivor's benefits to a vested participant's spouse. Many women have made sacrifices for their husband's career in order to provide financial rewards for the family, but the company benefits in return.

I am very fortunate that my husband has shared this information with me. He has talked with many men in this situation that have not told their wives that their survivors benefits will be terminated along with the termination of the present pension plan. When the present Defined Benefit Pension Plan is replaced with a Money Purchase Plan, a man in his fifties does not have enough working years left to accumulate substantial monies for survivors benefits. Many men don't tell their wives because:"she would not understand the pension business" or "she would get mad". Many of these women will wake up one day without any pension and will have to learn the hard way-fast.

Furthermore, Federal Law allows a company to hire executives with six figure salaries and give them "gifts" of years of service. These "gifts" are added to annually along with financial reimbursement which then in turn boosts retirement benefits. Yet a person working for the same company for 25 or 30 years of service may loose the very last years of service that give his pension the added boosts it needs to make it a livable pension; plus, the loss of survivor's benefits thru termination of a pension plan. THIS IS AN INEQUITY IN THE FEDERAL PENSION LAWS THAT EFFECT BOTH MEN AND WOMEN.

It is ironic that a company that has done business in this country for well over a hundred years; basically, with women, would have so little regard for the welfare of their own employee's wives, but the saddest part of all is the fact that present Federal Laws permit it to happen. It is also ironic that 51% of this particular company is owned by a non-American. If the laws in this country allow this company to do this, what is to stop Safeway, Kroger, Grand Union, General Foods, Nabisco, General Electric, General Motors, Ford, and others?

Marlene Williams

Marlene Williams, M.E.
Teacher of the Deaf

WHIRLPOOL CORPORATION

Comments on

S. 19

Retirement Equity Act of 1983

Background

Whirlpool Corporation (2000 U.S. 33 North, Benton Harbor, Michigan 49022) is a leading manufacturer and marketer of major home appliances. The company employs approximately 20,000 people nationwide, and provides its employees a full range of health, life, vacation, and other benefit programs which we believe, on balance, match or exceed programs provided by other employers in the appliance industry.

This is especially true in the area of employee pensions. Whirlpool has funded several million dollars for the benefit of its employees upon their retirement. As such, we are vitally interested in any legislation which could potentially impact the company's pension plans.

Senate Bill 19

S. 19 -- the Retirement Equity Act of 1983 -- proposes material changes to Whirlpool's pension plans. It also introduces ... then leaves unresolved ... a number of other key issues that could establish the groundwork for additional single interest legislation.

Whirlpool opposes passage of S. 19 -- or similarly written legislation -- for the following reasons:

1. The bill unfairly singles out maternity leave cases for special pension consideration. Other employees could rightfully question the fairness of this special legislation as it relates to their own "non-maternity" problems. For example, employees could easily rationalize that his or her presence is equally important to aid the spouse's recovery from a heart attack ... surgery ... or any of a number of other serious health problems. However, S. 19 does not provide those employees equal treatment under the proposed legislation.

   Passage of S. 19, in effect, would be opening a veritable Pandora's Box to a potentially unlimited number of other special interest groups demanding similar treatment.

   For Congress to give preferential treatment to one group (for the sake of "Equity") ... without giving equal treatment to other groups ... seems to violate the very purpose for which this bill was written.

2. We see a glaring contradiction between the changes being proposed in S. 19 and guidelines agreed to in Conference in earlier legislation (Conference Report 95-1786, on S. 995).

This report stated that "... women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, ..." (emphasis added). It seems ill-advised, then, for Congress to reverse its earlier precedent and, at the same time, to once again expose employers to additional administrative costs and burdens of amending their policies.

3. As introduced, S. 19 sets a far-reaching precedent by requiring employers to indirectly compensate male employees for paternity. Today, special paternity pension clauses are a rarity in the private sector -- perhaps because there is no clear social mandate to support such a dramatic policy change. Proponents of S. 19 may, in effect, be using this legislation as a means to remold one facet of society to achieve their own special ends. This role, we believe, is inappropriate for Congress.

4. Mandating special paternity benefits introduces two additional areas of debate which could expose employers to future litigation. One, and closely related to #1 above, hinges on the question of fairness to employees who are facing "non-maternity" health problems in their families. Should a male employee, for example, whose wife or even children who

are severely ill be afforded "equal treatment" under this proposed law? Problems of this nature are clearly as important to him as is maternity to the new father. If some of these other non-maternity medical cases would qualify, who in government is wise enough to define which illnesses shall qualify and which will not. If they would not qualify, who in Washington has the temerity and tenacity to withstand the pressure of single interest groups who will surely press for "equal" concessions?

Second, S. 19 leaves unresolved how employers would handle the issue of employees (male or female) where maternity or paternity arises from births outside traditional matrimony. Social acceptance of such practices appears to be on the upswing, regardless of its merits. How are employers to respond? If Congress deems it appropriate to raise issues that have moral trappings, it is only fitting that Congress also indemnify employers from potential charges of "unfairness" that will likely follow from other employees.

5. We feel that pension agreements are best resolved among employers and their workforce through the long-established and time-honored process of management-labor negotiations. Employers, rather than Congress, know better what they can afford, and whether they can successfully pass on the added pension costs to consumers in the form of higher retail prices.

Conclusion

The "Retirement Equity Act of 1983" (S. 19) is laden with inequities. For the reasons cited above, we believe the measure -- perhaps well-intentioned -- is, nevertheless, poor legislation. It does not adequately address other related matters of fairness beyond the immediate issue of maternity.

To the contrary, S. 19 raises and then begs further debate on a number of related employee issues heretofore latent.

We urge Congress to defeat passage of S. 19, or similarly written legislation.

For additional information, please contact:

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OF COUNSEL
W. DURRELL NIELSEN II

September 9, 1983

Senator Robert J. Dole, Chairman
Senate Finance Committee
U. S. Senate
Washington, D. C. 20510

Re: Senate Bill 19 -- the Retirement Equity Bill of 1983
Senate Bill 888 -- the Economic Equity Bill of 1983

Dear Senator Dole:

The purpose of this letter is to submit a written comment regarding a particular provision of Senate Bills 19 and 888. I am an attorney in private practice in Salt Lake City, Utah, and a substantial portion of my practice is involved with qualified pension and profit sharing plans for small employers. I am chairman of the Program Committee of the Mountain States Pension Conference, a group comprised of attorneys, accountants, trust officers, plan administrators and others involved in the pension industry. I am also an officer of the Tax Section of the Utah State Bar Association. My activities with the Mountain States Pension Conference and Tax Section of the Bar give me frequent opportunity to discuss pension-related matters with other individuals.

Both Senate Bill 19 and Senate Bill 888 would lower the minimum age for participation in a qualified pension or profit sharing plan from age 25 to 21. I feel that this provision would serve no useful purpose and would not strengthen in any way the private pension system of the United States or in any way make qualified pension or profit sharing plans more "equitable", although it would impose a substantial economic burden on employers. When the existing law was under consideration as part of the Employee Retirement Income Security Act of 1974, Congress specifically considered the impact of the existing provisions as reflected in the Committee Reports, which state:

> The committee believes that these rules are reasonable. They provide a balance between the need to grant employees the right to participate in pension plans at a relatively early age so

> that they can begin to acquire pension rights and the need to avoid the administrative drawbacks that would be involved in granting coverage to immature and transient employees whose benefits would in any event be small.

Nothing has changed since 1974 to merit a change in that philosophy, unless maybe it is a change in political pressures.

At the hearing on the bills held by the Senate Finance Committee in June, it was pointed out that according to the Bureau of Labor Statistics, the labor force participation rate peaks at seventy percent (70%) for women between the ages of twenty (20) and twenty-four (24). Government figures also indicate that women in this age group typically remain on a job only eighteen (18) months before dropping out of the work force altogether or moving to another job.

Based upon my experience and that of numerous other attorneys, accountants, plan administrators and others involved in the pension area with whom I have discussed this topic, individuals in the 21 to 25 year age group are not concerned about pensions or retirement. Typically, workers in this age group are highly mobile, often struggling financially to make ends meet and often include women who do not intend to remain in the work force but who are working simply to allow their husband to finish school or to supplement their husband's income. On separation from service, whether the individual is withdrawing from the work force completely or is simply changing jobs, the money is most often used to purchase a new car, furniture, or to make payments on a home. In virtually every case, the account balance is not rolled over to an individual retirement account, other qualified plan or otherwise retained in the private pension system.

If an individual retires at age 65, commencing participation in a retirement plan at the current age 25 allows a minimum of 40 years in which to build a retirement fund, which ought to be plenty of time.

If Congress and the Administration are truly concerned about correcting inequities in the pension system, an infinitely greater benefit could be provided to women by allowing nonworking individuals to establish their own individual retirement accounts with the same contribution limits as those provided for working individuals. The cost of sustaining a retired couple where one spouse did not work is not less than the cost of sustaining a retired couple where both spouses earned income. If the private pension system is to be equitable, it ought to permit the accumulation of retirement benefits for both working and non-working spouses. In addition, this would be a cost-effective means of adding to the nation's private pension system compared to the high cost-no benefit concept of lowering the minimum age of participation from age twenty-five (25) to age twenty-one (21).

I appreciate your consideration of these comments.

Very truly yours,

McMURRAY & McINTOSH

David O. Park

David O. Parkinson

DOP/ms